

SELECT REVIEWS,

FOR JANUARY, 1811.

ORIGINAL.

[FOR THE SELECT REVIEWS.]

A Treatise on the Law of War, translated from the original Latin of Cornelius Van Bynkershoek; being the first book of his *Quæstiones Juris Publici*, with Notes. By Peter Stephen Duponceau, Counsellor at Law in the Supreme Court of the United States of America. 8vo. pp. 218. Farrand and Nicholas. Philadelphia. 1810.

THIS masterly treatise is another, and most distinguished refutation of the calumnies flung from all quarters of Europe, but particularly from Great Britain, on the literature of the United States of America. The immense resources of this country for foreign trade, and its supposed inability for foreign war, have given such a spread and turn to its foreign relations, as to render maritime and political law, and particularly the conflicting pretensions of war and neutrality, objects of especial attention and pursuit; objects, which it seems, are to be attained by acuteness only, without the corroboration of force, involving perpetual diplomatick as well as private controversies, indefinitely diversified, and infinitely magnified, by the astonishing national alterations that have taken place since our entrance upon the theatre of sovereign states; and to which, therefore, all the talents of our statesmen, all the ingenuity of our lawyers, all the

skill and enterprise of our merchants and citizens at large, preeminently enterprising and intelligent as they are, have been incessantly directed.

When the British government, in 1805, threatened to enforce what they chose to summon from the vasty deep as the rule of 1756, the American nation unanimously raised its voice against the aggression; and from all the seaport towns addresses poured in upon the administration, signed without distinction of party, calling upon the intervention of government to ward off this insidious and destructive blow. The addresses from Boston and Baltimore, which were ascribed to Mr. Gore and Mr. Pinkney, were, above all others, distinguished for the power of argument, and animation of language, with which they maintained the attitude of opposition it became us to assume on that conjuncture. And the present president of the United States, then secretary of state, also taking up the pen, and devoting to

this momentous subject a greater portion of time than any other individual had bestowed, soon after published his examination of the British doctrine, in a pamphlet, containing a very profound and temperate discussion of the question; in which he took occasion to recommend this treatise of Bynkershoek, as the most able and impartial repository of the law of nations. To the publicist and lawyer, indeed, that recommendation was not necessary; for, though buried in a dead language, and a bad translation, yet in one or other of those shapes, this excellent treatise was to be found in most of their libraries. But considering the vast importance of being able, at a moment's warning, to arm ourselves with an authority of the first impression, whose learning and good sense have stamped upon his work a sterling weight and value universally recognised, and whose learning and good sense, though proof alike against bias and antipathy, have made him favourable to neutrals, and the champion of neutral rights, we rejoice with an exceeding great joy to meet him in a form so tangible, plain, and pleasing as the present translation; which brings his worth home to all men's bosoms, whether learned or laymen, and places his redoubtable truncheon within the grasp of every the shallowest politician that ever grapples with an argument.

In no part of the world is the study of the law of nations so general and essential as in this country. In no other part have so much pains been taken to make it a law fundamental and supreme; and, let the prejudices of Europe sneer as they may, in no part is it so well understood or so rigidly adhered to. The constitution of the American admiralty courts is such as to promise greater justice and uniformity, in the dispensation of international law, than can be expected from any other similar tribunals; because the judges

are independent in their tenures of office, the law of nations is expressly enjoined upon them by the constitution as a paramount rule of action, appeals from their decisions lie not to the executive magistracy, or any delegation of political authority; nor is it possible for any admixture of state necessity or fleeting policy, to infuse itself into their proceedings.

In England, where a system of municipal law, if not perfect in itself, is at least so ably and invariably administered, as to answer, perhaps, all the ends of the most perfect system, the organization of their admiralty courts is altogether political; and though politicks are a very general study in England, it is hardly conceivable how little, till very lately, that most noble and useful department of jurisprudence, in which the law of nations is deposited, was explored or exhibited. Such men as sir William Scott, who unite profound and elegant erudition with daily practice and long experience, seem to prefer, as Sallust says of the early Romans, *optumus quisque facere, quam dicere; sua ab aliis benefacta laudari, quam ipse aliorum narrare malebat*: That they should perform, and others report their performances, than to apply their talents for the benefit of posterity. Hence the elements of this superiour science remain to this hour, untilld by English hands; and amidst the abundance of their soil in productions of municipal law, the law of nations lies barren and uncultivated. Some ages ago, indeed, Zouch struck in with his clumsy spade, and barely turned up the earth; and nearer to our times, Lee, pilfering the gardens of Bynkershoek, and disfiguring what he had rudely gathered, passed it for his own. But Zouch has got to the highest shelf, where the dust lies thickest, whence he is never taken down, not even for a reference or citation; but reposes with the rest of the

necessary "monumental mockery," of a library. And with Lee, as we shall have frequent occasion for him in the course of our review, we seize this the earliest opportunity of breaking ground, by declaring unequivocally, *sans phrase*, that without understanding his subject, his author or himself, he had the (not uncommon) impudence to put off a spurious and incomplete plagiarism from Bynkershoek, as an original work of his own, which base impression continued current from the period of its emission, in 1759, until 1803, when a second edition was published [Mr. Lee, we suppose, being then no more] in which it is, even then, only half acknowledged to be "an enlarged translation of the principal part of Bynkershoek's *Quæstiones Juris Publici*."

The principal cause of this defect in English learning, we presume to ascribe to the limited acquaintance of most English lawyers, jurists, and statesmen, with the languages, in which the most celebrated and recognised works on the law of nations are written. The English are as remarkable for their proficiency in the dead, as for their deficiency in the living languages. There are, perhaps, no bodies of individuals in the world, so conversant with Greek and Latin, as the parliament and bar of Great Britain; nor any containing such a number, among whom there is so large a proportion unacquainted with Italian, French, Spanish, German and Dutch; few of whom enjoy the advantages of even a partial intimacy with those sources of intelligence, each one of which, without disparaging the inestimable benefits of a knowledge of the classic tongues, opens a new and inexhaustible realm of learning; causes, (as Charles V. is reported to have said) a man to be born anew, and sheds on him more practical and profitable information, than the most profound erudition in the lore of antiquity. The contempt with which

the English regard all foreign nations and idioms, and the insurmountable subdivisions of employment which prevail among them, restricting each individual to a precise avocation, have also conspired to exclude them from any excellence of attainment in the law of nations, which happens to belong to no particular profession (for even the admiralty courts are but the satellites of war) and is mostly to be found in foreign, living languages. Though there is not, strictly speaking, a single treatise on this subject, in English, so very numerous are the writers upon it, on the continent of Europe, that a German has filled two volumes with a mere account of these books, tracts, and dissertations, which are published with the title of "Literature of the Law of Nations."

It was reserved for an American lawyer to present us with a correct and acceptable English translation of Bynkershoek, elucidated, and adapted to the present enlarged sphere of political science, by a body of notes, the offspring of extensive reading, sound judgment, great experience, and especially excellent acquirements in the particular subjects investigated; in which, where applause is due, either to foreign nations or ourselves, it is bestowed with an even measure; and where censure is provoked, it is in like manner laid on with an impartial hand, not regarding where it may fall; throughout which a genuine American spirit is asserted and inculcated, and associated with those correct expositions of the law of nations, that are at the same time the aim and ornament of the original work, and the policy, and vital interest of this country. Accordingly, the world, and particularly the English community, now have in Bynkershoek an author of superiour abilities, discussing principles formed and familiarized in his mind by education and his profession; by deep

study, long practice, and unbiassed judicial experience; whose station, talents, and character placed him above the common level of common prejudices; who did not publish, till time and reflection had matured his researches; who unites a laudable love of equity with a due portion of that hardy, mental temperament, which is indispensable to an impartial commentator on laws and usages not generally known, and considerably contested; whose work appeared at an age when the law of nations, the rights of neutrality, and the pretensions of war were less involved and expanded than they are at present; and the fruits of whose labours have been hitherto locked up in the almost impervious recesses of a dead language, invisible to the general eye, when once partially shown, miserably mutilated, and free of access only to scholars and civilians. In his American translator we have a successour (as he may not improperly be entitled) to Bynkershoek's qualifications, living in an age when all the points of which his author treats, have been vastly enhanced in importance; in a country removed from the despotisms, which lie with an iron sway, in Europe, on both actions and opinions; where, from the bosom of a prosperous neutrality, the controversies that agitate the world, may be dispassionately surveyed; of whose law the law of nations is a fundamental part; whose citizens, from every motive of interest and ambition, emolument and pride, are incessantly striving to learn and to teach, to improve, extend, and render permanent, that law; among whom Mr. Duponceau is distinguished for having made this subject his peculiar study and employment; for having adorned his library with the most celebrated treatises in the various languages, that are dedicated to it; for his uncommonly extensive and accurate knowledge of those various languages, and consequently for his

conspicuous and superiour capacity for managing and displaying such a subject to the greatest advantage; who does not hastily transmute the treasures of his information into the first stipend, that is offered by a bookseller; but purified by time and repeated revision from the inevitable crudities and imperfections of a first impression,

Nocturna versate manu, versate diurna, and at a proper season given to the publick, from a noble desire to instruct, and the generous ambition of an honest fame.

At such a crisis as the present, when on one side the imperial rulers of the earth, and the lords of the "ambitious ocean" on the other, are like the Heathen gods, waging their "high engendered battles," without any regard to the rights of other powers, who by side-blows are crushed in the desperate conflict; when the United States in particular who alone from their remoteness, have been saved from destruction, are made the anvil of a new and incomparably tremendous application of hostility, called belligerent retaliation, whose strokes, falling for the most part wide of their aim, if not levelled at, at any rate light upon us, driving law, right, and neutrality out of view, it is peculiarly gratifying to have such a shield as Bynkershoek, burnished by such a master as Duponceau. It is in fact so rare, we may say unexampled, to meet a modern jurist, discussing the angry topicks of the law of nations, with candour, learning, and dispassionateness, without some paltry prejudice or absurd antipathy, that we are ready to hail such a writer, as we would a powerful pacificator after many years of commotion and bloodshed; who, dispensing the selectest influence over benighted and infuriated empires, in a voice of authority commands peace and ease.

In reviewing such a work, it would be presumptuous to assume

the functions of domineering criticism. In this era of universal restlessness, revolution, and usurpation, criticks, like other usurpers, have enthroned themselves on the high seats of spoliation, from whence they presume to pass sentence, mostly of damnation and combustion, sometimes of cold and dignified approval, on the lords and monarchs of letters, beings greatly their superiours, who, worsted by the perversion of the times, are forced to submit to their decision. For us, we have no such pretensions. Without wishing to make new books the mere vehicles for obtruding upon the publick our own dogmas and prepossessions; but sincerely desirous of rendering ourselves strictly ancillary to their purposes, to be their "honest chronicler," and with a fair annunciation of their merits and demerits, to leave them to the judgment of their readers, we enter upon the present examination, intending to avoid, as much as may be, without confusion, all points of mere politicks, and of mere municipal jurisprudence; and directing our inquiries to the great, interesting questions of international law.

CHAPTER I.

The first chapter treats of the definition and nature of war; a particular of no great interest to most readers; for though it is of moment with an author to simplify and reduce to some precise test, those ideas, from which he sets out, and which are afterwards to be enlarged upon in more various examination, yet none but a student, and very seldom a mere reader, pays much attention to this preliminary.

At the very threshold of our inquiry we are called upon to contrast the clear style and correct version of Mr. Duponceau, with the awkward and blundering translation of Lee: of which, that there may be no doubt, we beg leave to set before

our readers the original and both translations. *Bellum est eorum, qui suæ potestatis sunt, juris sui persequendi ergo, concertatis per vim vel dolum.** After citing the definitions of Cicero and Grotius, as if he took them from those authors respectively, and not as he found them in Bynkershoek, Lee proceeds: "But Mr. Bynkershoek, an author of great reputation, has given a much fuller, and I think, more perfect, definition of war, which, he says, is a contest between independent *sovereigns, who are therefore* entitled to pursue their own just rights by force, or by artifice."† Which uncandid and disingenuous copy has not the bare merit of being correct; but is, in several respects, untrue and absurd. *Eorum qui suæ potestatis sunt*, is translated into independent *sovereigns*; whereas it plainly means only independent *persons*; which is clearly shown, immediately after, by the author himself, who adds "*sive nempe gentium, sive singulorum hominum.*" The word "ergo" in this definition means "for the sake of," as Mr. Duponceau gives it; but Lee, plunging along, translates it "therefore;" thus turning a definition, which of course should not argue, into a ridiculous enthymem. Let us now hear Mr. Duponceau. "War is a contest carried on between independent persons, by force, or fraud, for the sake of asserting their rights."

Perhaps, to exclude the idea of a duel, "bodies" might be substituted with advantage for "persons;" but in the face of such authorities we even suggest with great deference. One of the best definitions we know of, not of war, but its opposite, peace, in which succinctness of expression and fulness of matter are best combined, is an incidental definition by Salust; who calls peace "*otium ferocis*," the cessation of hostilities; or leisure from that state of barbarian, untamed conflict, which seems to be

* Bynkershoek.

† Lee.

more than ever natural to man, both civilized and savage; which, as this expression intimates, is the grand business of life; for which all previous peace is but a period of preparation, and all subsequent repose but a breathing spell and inaction; to the carrying on of which a vast majority of civilized men are regularly educated; and concerning which statesmen and publicists have composed their finest dissertations. The great powers of refined Europe seem to be so bent on the perfection of this state of nature, that all their efforts are exerted to

"Rend and deracinate
The unity and married calm of states;"
who seem to have decreed a divorce
à mensa, thoro et vinculis, and to
have executed articles of perpetual
strife and separation.

CHAPTER II.

Whether civilized nations are bound to declare war, is another of the questions involved in the general doctrine of the law of nations, which, however proper to be discussed in this chapter, and sometimes handled by statesmen, is not much to the purpose of our main inquiry. Perhaps Bynkershoek leaves it on its best footing, viz. that they ought, but are not bound, to promulgate a solemn annunciation. If, like Idæus and Talthybius, the sacred heralds in the Iliad, or the fæcial messengers of the Romans, modern ambassadours could not only declare, but suspend and terminate wars, this point would become interesting to us all. But as the proclamations and manifestos, which generally precede or attend modern hostilities, are intended to give popularity at home, not note of prepa-

ration abroad, as many wars of late have stolen out in undeclared, unacknowledged trespasses, and some in clandestine wrongs, perpetrated with one hand and denied with the other; it will be as well not to embarrass the practical usages of states, with contests about these subsidiary incidents; but leaving them for the introductory chapters of civilians, to receive the declarations of war, as, in spite of our reasoning, they generally will come, from the adamantine throats of thundering artillery.

Without, therefore, any time spent upon this head, we proceed to others; merely taking occasion, in transitu, to point out a capital mistake of Mr. Bynkershoek's printer in this chapter, which is unsuspectingly adopted and propagated by Mr. Lee; and now, for the first time, rectified by Mr. Duponceau. In this second chapter Bynkershoek quotes a passage from Dion Chrysostom, where he says that wars are more frequently waged *without* previous declarations; and in the following page, evidently by a misprint, quotes the same passage in an opposite sense. But Lee, perceiving the dilemma, and at a loss how to escape it, like an experienced antiquarian, calls in the Greeks and Romans to his aid, though Bynkershoek in this passage makes no mention of them whatever; and asserts that they, as he understands from Chrysostom aforesaid, waged war for the most part by declaration—*Lee, p. 21.* Duponceau, venturing to leave the Greeks and Romans to themselves, and yet desirous of explaining the seeming contradiction, inserts a note in which the whole difficulty is satisfactorily cleared up.*

* In the original, this passage from *Dion Chrysostom* is quoted so as to mean, that war is most frequently DECLARED (*bella indicta ἐπὶ τὸ πλεῖστον, ut plurimum*) but from the context it appears evidently to have been an error of the press. The words of *Chrysostom* are: πόλεμοι ὡς ἐπὶ τὸ ἀλείψον ἈΚΗΡΥΚΤΟΙ γίνονται. Wars are most frequently made WITHOUT a public declaration, and so our author translates them very correctly above, page 7.

CHAPTER III.—IV.

The period when Bynkershoek wrote may seem to be too modern for supporting the right to destroy or enslave prisoners of war. Yet when we reflect on what are termed the rights of war, however shocking the principle may appear, must it not be conceded as one of the incidents of that summum jus, which, as the translator properly observes, is very near akin to barbarism? The custom of exchanging prisoners has so generally superseded those of enslaving and destroying them, and so many offices of civility and reciprocal kindness have been engrafted on the duties, so called, of war, that we have brought ourselves almost to believe, that an enemy has no right over prisoners beyond that of detention; an opinion undoubtedly unfounded, or the blood of André would rest on the head of Washington, and all the examples of retaliating severity, which every war visits on the conflicting parties, would be nothing better than so many murders. Is not this seeming amelioration calculated to perpetuate bloodshed, by rendering war a science, full to be sure of peril and stratagem, but nevertheless contained within certain ascertained bounds of wrong-doing, a captivating profession to the young and ambitious, and the surest means of a bad minister's support? Would it not contribute more to the infrequency, and, at least comparative, prevention of wars, if their rights were exercised with less mitigated rigour; and warring nations made to feel, in their direst effects, the pressure and privations of that state of barbarism, of savage nature, brute force, and suspended civilisation, which, after all that can be said, done, or written, war is and ever will be?

As regards property there is no dispute. Therefore, in the fourth chapter, the author, taking it for granted that all things by conquest are converted to the conquer-

or's use, passes on, almost without noticing this principle, to the subordinate inquiry that follows.

A quarrel between Louvois and Le Notre, respecting one of the windows in the palace of Versailles, which Louis the fourteenth found it necessary to quell, by reproofing the former, instigated that mortified great minister of war to plunge his master into the endless hostilities that followed, by way of amusing his mind and securing his own place. And no one contested the right to ravage and lay waste the Palatinate, however the unnecessary cruelty of that ferocious stroke of Louvois' policy may be deprecated or detested. Henry the fifth, of England, during the battle of Agincourt, did not hesitate to put all his prisoners to death, on the plea of necessity; nor do we doubt his *right*, though we shudder at the deed.

Let us not be understood to recommend the poisoning of fountains, or massacre of captives. But we do venture an opinion, in conformity with the text before us, that nations, before they rush upon a state of war, should be prepared to endure its essential hardships. And we do wish to be understood as reprobating those corrupt relaxations which have obtained lately between the great European belligerents, by which the rigours of war are frittered away as between themselves, and their whole edge and operation turned upon neutrals. We are not anxious, at this time of day, to contest, *ab ovo*, the rights of war; or to assert that neutrals acquire immunities not theirs in time of peace. But we must reprobate all corruptions, which tend to make a quasi peace between the belligerents, and a quasi war between them and neutrals; in which, like a quarrelling man and wife, the belligerents coalesce to destroy the neutrel who interferes with his impartial assistance. It will be perceived that, in advance of its proper place, we are alluding to what is called the license trade, that has

prevailed lately to so enormous an amount between France and England, notwithstanding the *flagration* of war; that monstrous anomaly in the usages of nations and laws of war, which prohibits and confiscates a neutral for attempting what a belligerent may perpetrate with impunity, and without disguise; that best and boasted issue from the law of gleaning, the only one we know of, in which the supreme wants of necessity are allowed to overcome the institutions of society. Let empires make peace when they can no longer bear the weight of war; or, at all events, let not the indefeasible and primary rights of neutrality fall a victim to the subsequent and doubtful aggressions of war, unless the latter are maintained with such rigorous exactitude as to entitle belligerents to the rigorous exercise of their rights on neutrals. Let not the former claim both the bone and the flesh.

To such, if any there be, who advocate the right, as well as the policy of the late British orders, and French decrees, we recommend what Bynkershoek, with an independence of sentiment, as laudable, as his arguments are irresistible, urges against the Dutch decree of the 27th November, 1666, and the French decree of the 17th September, 1672, which unnatural ebullitions of hostile anger he unhesitatingly disapproves, though they originated with his own government, because without actual enforcement they were illegal and void; because they fell alike on the innocent and offensive: for, says this great and just publicist, "RETALIATION IS ONLY TO BE EXERCISED ON HIM WHO HAS COMMITTED THE INJURY, AND NOT ON A COMMON FRIEND; AND HE, WHO HAS DONE NO INJURY, OUGHT NOT, IN JUSTICE, TO SUFFER." Even Mr. Lee, not foreseeing the juncture that has arisen, honestly declares that "commerce, by the very nature of war, ceases between powers at open enmity; for it

would be absurd to suppose, that any people would venture with their persons and goods to places, where they were sure to have the one imprisoned and the other confiscated: wherefore in *declarations of war*, and proclamations which follow them, mutual commerce is generally forbid." This retaliation, of all measures of state necessity, is that to which the poet's description of a monster, as applied by Bynkershoek to state necessity in general, most emphatically belongs,

"Monstrum horrendum, informe, ingens,
cui lumen ademptum."

In his 5th, 6th, 7th, and 8th chapters, Bynkershoek treats with his usual talent and impartiality, of recaptures, of hostile territorial occupancy, of confiscations, and of hostilities in neutral ports or territories: and the translation proceeds with the same spirit and accuracy. But we pass rapidly over these divisions, to come to those of higher interest, which follow, wherein the rights of neutrality, as clashing with those of war, contraband, and blockade, are investigated.

The fearful improvements of late years in the arts of war and destruction, which have distinguished the old world, both by sea and land; and the no less prodigious growth of commercial prosperity and maritime enterprise, proceeding from the new, have forced the conflicting doctrines of both war and neutrality into so many new views, that it is matter of curious speculation to examine the pure but little fountains, from which they rose, and from whence they have now spread over the whole face of the globe. From the author before us, one of the most copious and unadulterated of these sources, we perceive that the time is not very distant when soldiers were not comprehended in the list of contraband, that has lately swelled to such an enormous roll; and that those same powers, which now inhibit the shipment of an ounce of lead or a coil of cordage, as a vio-

lent breach of the rights of war, formerly did not presume to complain, when men, of flesh and blood, and equipped with arms, were transported to fight in the array of one belligerent against another. Neutrality had not even a name. Language had no term to express it; not because it did not exist, but because its immunities were so very latitudinarian, as to be almost coextensive with the superfluities, which a nation at peace could furnish to one at war.

"I call neutrals [*non hostes**] those who take part with neither of the belligerent powers, and who are not bound to either by any alliance. If they are so bound, they are no longer neutrals, but allies. Grotius has called them middle men [*medii*] l. 3. *De J. B. ac P. c.* 9. Of these it is asked what is lawful for them to do or not do between two belligerent parties? Every thing, perhaps it will be said, that it was lawful for them to do or to omit doing when they were all at peace; for the state of war does not seem to extend farther than to those who are at war with each other. Does reason require, will you say, that the enemies of our friends should be considered as our own enemies? If not, why shall not our friends carry to their friends, though they be our enemies, those things which they were in the habit of carrying to them before? nay, arms, men, and every thing else? It militates, indeed, against our own advantage, but we are not considering what is advantageous, but what is reasonable. The injury suffered is alone the cause of the war, and it is evident that that injury has no effect beyond the person of him who has suffered it, except, that if he is a prince, it extends also to all his subjects, but not to those who are not subject to his dominion. Whence it must follow, that my friend's enemy is not my enemy, but that the friendship between us subsists precisely as it did before the war.

"We find that the counsellors of the

states-general adopted this doctrine, when on the 3d of March 1640, the states issued an edict on their report, declaring that *agreeably to ancient custom and to the law of neutrality*, it was lawful for neutrals to fight for us or for our enemies as they might think proper. And when the Spaniards, on the 30th of March 1639, issued an edict declaring that if any of the people of Liege had enlisted in the service of the states-general, they should return within one month, having first taken an oath that they would no more fight against Spain or the house of Austria, otherwise, every pardon would be denied to them, a similar edict was made in retaliation on the 3d of March 1640, in the name of the states-general, of which I remember that it was to be in force as long as that of Spain, which, in the said edict of the 3d of March 1640, was represented as an innovation, entirely devoid of reason, and stigmatized in these words: '*an unreasonable edict—such novelty and unreasonableness—so long as the Spaniards shall continue in force their unreasonable edict, &c.*' Such also was the opinion of certain Dutch citizens, expressed in the states of Holland, on the 26th of February 1684, when they urged the sending of auxiliary troops to the Spaniards, to be employed against the French, which they said could be done without injury to the peace then subsisting with France: *Salvá pace et amicitia cum Francis.*

"And indeed, what I have just now said is not only conformable to reason, but to the usage admitted by almost all nations. For although it be lawful for us to carry on trade with the enemies of our friends, usage has so ordered it, as I shall show more at large in the next chapter, that we should not assist either of them with those things by which the war against our friends may be carried on. It is therefore unlawful to carry to either party those things which are necessary in war, such as cannon, arms, and what is most essentially useful, soldiers; nay, soldiers are positively excepted by the treaties of various nations, and sometimes also materials for building ships, which might be used against our friends, have been excepted. Provisions likewise are

* It is remarkable that there are no words in the Latin language which precisely answer to the English expressions, *neutral, neutrality*; for *neutralis, neutralitas*, which are used by some modern writers, are barbarisms, not to be met with in any classical author. These make use of the words *amici, medii, pacati*, which are very inadequate to express what we understand by neutrals, and they have no substantive whatever (that we know of) for neutrality. We shall not here inquire into the cause of this deficiency. Such an inquiry would carry us too far, and does not comport with the object of this work.

often excepted, when the enemies are besieged by our friends, or are *otherwise* pressed by famine. The law has very properly forbidden our supplying the enemy with any of those things; for it would be, as it were, making war against our friends. Therefore if we consider the belligerents merely as our friends, we may lawfully carry on trade with them, and carry to them any kind of merchandise, but if we consider them as the enemies of our friends, those merchandises must be excepted, by means of which they might injure those friends; and this reason is stronger than the former; for in whatever manner we may assist one against the other, we do interfere in the war, which is not consistent with the duties of neutrality. From these reasons may be seen which had the most justice on its side, the edict of the Spaniards of the 30th of March 1639, or that of the states-general of the 3d of March, 1640, of both of which I have spoken above."

As respects contraband, Bynkershoek is very explicit and very reasonable. In truth, it is not his least merit, that, without seeming to concede any thing to either party, he mostly recommends that medium, which ought to be unobjectionable to both.

"It is denied that the subject of an ally or confederate, trading with a common enemy, may be punished by us, or his property condemned; because it is said that every one is bound only to obey the laws of his own sovereign, and therefore that an ally can have no control over him. But reason, usage, and publick utility, are opposed to that decision."

But the belligerent assertion, which by its enormity, has swallowed up all others, is that of blockade;

a principle, in itself so plain, that two unprejudiced minds can hardly differ about it. Yet it is the constructive extension of this principle, so clear when confined to its legitimate bounds, so clearly a wrong when exceeding them, that has unhinged the established laws and usages of nations and of ages. Bynkershoek, in the main, supports those sentiments, that are most prevalent on this point, for the theory is too plain for a cavil.

"I have said in a former chapter, that by the usage of nations, and according to the principles of natural reason, it is not lawful to carry any thing to places that are blockaded or besieged. Grotius is of the same opinion; for he reprobates the carrying any thing to blockaded or besieged places, 'if it should impede the execution of the belligerent's lawful designs; and if the carriers might have known of the siege or blockade, as in the case of a town actually invested or a port closely blockaded, and when a surrender or a peace is already expected to take place.'* Indeed, it is sufficient that there be a siege or blockade to make it unlawful to carry any thing, whether contraband or not, to a place thus circumstanced; for those who are within may be compelled to surrender, not merely by the direct application of force, but also by the want of provisions and other necessaries. If, therefore, it should be lawful to carry to them what they are in need of, the belligerent might thereby be compelled to raise the siege or blockade, which would be doing him an injury, and therefore would be unjust. And because it cannot be known what articles the besieged may want, the law forbids, in general terms, carrying *any thing* to them; otherwise disputes and altercations would arise to which there would be no end."

* *Si juris mei executionem rerum subvectio impedierit, idque scire potuerit qui advenit, ut si oppidum obsessum tenebam, si portus clausos, & jam deditio aut pax expectabatur, tenebitur ille mihi de damno culpa dato, ut qui debitorem carceri exemit, aut fugam ejus in meam fraudem instruxit; si damnum nondum dederit, sed dare voluerit, jus erit rerum retentione eum cogere ut de futuro caveat, obsidibus, pignoribus, aut alio modo.* If he (the carrier) should by his supplies impede the execution of any lawful designs; as if I kept a town besieged or a port closely blockaded, and I already expected a surrender or a peace; he will be liable to me for the damage occasioned by his fault, in like manner as he who should make my debtor escape out of prison, or aid him in his flight to defraud me of my right: and if he has not occasioned to me any actual damage, but has been willing to do it, in that case, it will be lawful by the detention of his goods, to compel him to give security for the future, by hostages, pledges, or in some other way. *Grot. de J. B. ac. P. l. 3. c. 1. § 5. n. 3.*

So much has been said and written on this subject of late, that we cannot presume to tax our readers with a renewal of the irksome discussion. Every one knows that a blockade, by law and common sense, must be actual and enforced: but every one likewise knows that overwhelming power, the intoxication of success, and desperation of disaster, have driven off what ought to be, and substituted what is, a system of paper, that enchains the world more effectually than cannons, fleets, and armies.

Before we leave this class of chapters we must not forget to remark that Bynkershoek, in the 6th, quotes the answer of a Roman emperor to the king of Persia, in these words: *Qui enim Dominus est ejus qui imperat, quomodo nec Dominus erit ejus quod ei subest?* which Mr. Lee translates [page 98] "How is he master of him, who commands, when he is not to be master of that, which is subject to him?" which being exactly what the original does *not* mean, Mr. Duponceau has taken care [page 48] to set it right.

CHAPTER XIII—XIV.

To the advocates of neutral rights these chapters are peculiarly gratifying. They discuss the belligerent claims to neutral goods found on board enemies' ships, and enemies' goods found on board neutral ships; and after an analysis of the law, deduced from treaties, writers, and usage, and a luminous development of the abstract merits, conclude by an expression of the author's opinion, in both cases, against those unjust pretensions, which have been occasionally advanced by powerful belligerents, in moments of triumph or pressure; but upon the injustice of which all writers, at least, are agreed. The first has never been so much contested, as the second, the long agitated question whether free ships make free goods, about which so many swords

and so many pens have been brandished, so much blood and ink have been spilt. The basis on which Bynkershoek leaves it is unexceptionably just, and should be universally satisfactory. But we especially rejoice at the unqualified and quasi territorial property of ships, which is established by the coincident opinions of Hubner and Bykneshoek, as explained by Mr. Duponceau.

"We will now proceed to consider the second question, whether the enemy's goods themselves, taken on board of a neutral vessel, are liable to confiscation. Some will wonder, perhaps, that any doubt should be entertained about it, as it is clearly lawful for a belligerent to take the property of his enemy. And yet, in all the treaties which I have cited in the preceding chapter [p. 103] there is an express stipulation that 'enemy's goods, found on board of neutral vessels, shall be free;' or (as we commonly express it) that *free ships shall make free goods*, except, however, contraband of war, when carrying to the enemy. And what will be thought more astonishing, is, that among those treaties, there are four to which France is a party, and, according to them, even *enemy's goods*, laden on board of neutral vessels, are not liable to confiscation; much less, therefore, ought the *neutral vessel* to be confiscated, on board of which they are shipped. So that it must be said, either that the principle of the old French law, which I have above mentioned, has been entirely abandoned, or, what is more probable, that those treaties are to be considered as exceptions to it. However this may be, we are bound, in the discussion of general principles, to attend more to reason than to treaties. And on rational grounds, I cannot see why it should not be lawful to take enemy's goods, although found on board of a neutral ship; for in that case, what the belligerent takes is still the property of his enemy, and by the laws of war, belongs to the captor.

"It will be said, perhaps, that a belligerent may not lawfully take his enemy's goods on board of a neutral vessel, unless he should first take the neutral vessel itself, that he cannot do this without committing an act of violence upon his friend, in order to come at the property of his enemy, and that it is quite as unlawful as if he were to attack that enemy in a neutral port, or to commit depredations in the

*territory of a friend.** But it ought to be observed, that it is lawful to detain a neutral vessel, in order to ascertain, not by the flag merely, which may be fraudulently assumed, but by the documents themselves which are on board, whether she is really neutral. If she appear to be such, then she is to be dismissed, otherwise, she may be captured. And if this is lawful, as on every principle it is, and as it is generally practised, it will be lawful, also, to examine the documents which concern the cargo, and from thence to learn, whether there are enemy's goods concealed on board, and if any should be found, why may they not be captured by the law of war? The Dutch lawyers, whose opinion I have already cited, and the *Consolato del Mare*, in the chapter above referred to [*Consil. Belg. ubi supra*] are equally clear upon this point. According to them, the neutral ship is to be released, but the enemy's goods are to be carried into a port of the captor, and there condemned."

Here again we are obliged to expose Richard Lee, esq. who ushers in the 14th chapter with the following formidable absurdity: *Si navis amici [says B.] mei hostium res vehat, et capiatur, duplex erit inspectio; altera, an ipsa navis amica, altera an res hostiles recte publicentur!* "If the *ship* of a *friend* [says L.] carries the goods of an *enemy*, this occasions a double inspection—one whether the ship itself belongs to my friend, the other, whether the enemy's goods may be rightly condemned?" Without the aid of the original, this would be unintelligible: and with that aid it is plain Mr Lee has totally mistaken and perverted his author.

* It is worthy of observation, that our author, while he supports the belligerent principle, on the long agitated question, whether *free ships* "do or do not make *free goods*," tacitly admits that neutral vessels are entitled to be considered as *neutral territory*, a proposition which Mr. Hubner thought so self-evident, that he did not think it worth while (though he professedly wrote in favour of the neutral doctrine) to devote a single page of his work to its proof and development. *Hubn. de la Saisie, &c.* vol. I. p. 211. This principle being admitted, the question is reduced to the single point: "Whether the right of taking enemy's property on board of neutral vessels, necessarily follows as a consequence of the right of search, for the purpose of ascertaining their neutral character." On this point alone, the whole of our author's argument turns, and he maintains the affirmative; but like Hubner, he takes his proposition for granted, without taking any pains to demonstrate it. On the whole, he must be considered as having made a very important concession in favour of neutrals; and having greatly narrowed for them the field of that celebrated controversy. T.

CHAPTER XV—XVI.

The law of Postliminy, explained in this chapter, is mostly of municipal regulations.

CHAPTER XVII—XVIII—XIX—XX.

These chapters are fraught with useful learning on subjects of every day's occurrence in all maritime countries; learning, which is more applicable now in Great Britain and the United States, than it was in Holland at the time of publication; because of the vast progress of maritime adventure since then. They treat of pirates and privateers, of the forum for the punishment of the first, and of the relative rights and liabilities of the latter, their owners and associates; altogether of municipal cognizance, and therefore not to our present purpose.

CHAPTER XXI.

Ensurance of enemy's property and the conclusiveness of foreign sentences, which are the subjects of this chapter, are also without the scope of our design. We will therefore content ourselves with expressing our unfeigned joy that these once sturdily asserted doctrines are now nearly exploded, and on the high road to overthrow and oblivion, a consummation of justice to which the authority of Bynkershoek availed much in England, and we will add, the labours of Mr. Duponceau have not been in vain in America.

We ask leave here for a transient deviation from our plan, merely to insert a note of Mr. Duponceau's in which, with a national pride we heartily reciprocate, he notices the decided superiority of the reason given by judge Johnson, of the Supreme Court of the United States, over that given by lord Ellenborough, for the capture of a neutral for having violated his neutrality.

"According to the above decisions, the capture of *neutral* vessels by the cruisers of Great Britain or her co belligerents, is considered as a prohibited risk, 'because,' says lord Ellenborough, '*it is repugnant to the interest of the state, and has a tendency to render the British operations by sea ineffectual.*' *Kellner v. Le Mesurier*, 4 East, 402. This is certainly correct, on the ground of state policy; but, another reason, founded on the broad basis of the law of nations, is afforded by our own judge Johnson (one of the judges of the supreme court of the United States, and presiding judge of the courts which compose the 6th federal circuit) 'a neutral,' says he, 'who is captured for having violated his neutrality, is considered by the belligerent as an *enemy* waging an *individual war* against his nation, and is abandoned by his own government as such.' *Rose v. Himely*, *Bee's Admiralty Reports*, 322 It follows, from this principle, that all risks of capture, by the armed vessels of the nation to which the ensurer belongs, may be properly classed within the general prohibition against ensuring *enemy's property*. And, indeed, according to the *formula* which is used at present by the courts of admiralty of Great Britain, whatever may be, in point of fact, the specific ground of condemnation of a neutral vessel or cargo, no other reason is assigned in the decree, but that it belonged, at the time of capture, to the *enemies* of that country.—*Horne's Compend*. 148."

CHAPTER XXII.

The United States have been no less disturbed, than, as we are informed by Bynkershoek, many of the European states formerly were, by disputes concerning the expatriation of citizens, and extradition of deserters, which, together with the right of enlisting men in foreign countries, are the subjects of this 22d chapter. Of all the points in controversy between Great Britain and the United States, this is the one least susceptible of any settlement, and most liable to vexatious difficulties, of perpetual recurrence. As Bynkershoek is very satisfactory in all his views of this particular, we abstain from any comment, and leave him to the reader.

"I enter upon the discussion of a question which has been, and is still, the cause of much disturbance in many of the kingdoms and states of Europe: Whether it is lawful to enlist men in the territory of a friendly sovereign: Let it not be imagined, that I mean to contend, that it is lawful to entice away soldiers, by bribes or solicitations, from the service of another prince, in order to enlist them into our own. I know too well, that those who promote desertion, are not less guilty, and do not deserve a less punishment than the deserters themselves;† and, indeed, among some nations, that crime has even been construed into high treason. The question which I am about to investigate, is of a quite different nature. It is, whether a prince may, in the territory of a friendly sovereign, enlist private individuals who are not soldiers, and make use of them in war against his own enemies? It is certain, that if a prince prohibits his subjects from transferring their allegiance and en-

† The important question respecting the delivering up, or as it is called, the *extradition* of deserters from one country to another, has been the subject of much controversy in America as well as in Europe, and is not yet at rest. It has been but slightly touched upon by some of the writers on the law of nations, and by others not at all. Vattel says nothing upon it. Hubner lays it down as a general principle, that "a neutral sovereign may receive in his dominions, and even among the number of his subjects, deserters from either of the belligerent armies, unless he is obliged to deliver them up by a special convention, called a *cartel*. 1 *Hubn. De la Saisie*, &c. p. 39. But Galiani distinguishes and contends, that if the army from which the soldiers desert is on the neutral territory at the time when the desertion takes place, as for instance, if it has been allowed the right of passage, the neutral sovereign is bound to deliver up those who have deserted their colours within his dominions; otherwise, it will be considered as a violation of the laws of hospitality.—*Galiani, De' doveri*, &c. l. 1. c. 8. § 4. T.

tering into the army or navy of another sovereign, such sovereign cannot, with propriety, enlist them into his service; but, where no such prohibition exists (as is the case in most of the countries of Europe) it is lawful, in my opinion, for the subject to abandon his country, migrate into another, and there serve his new sovereign in a military capacity.

"It is lawful, I repeat it, if there is no law that prohibits it, for a subject to change his condition, and transfer his allegiance from one sovereign to another. The writers on publick law are all of this opinion; nor does Grotius dissent from them; but he adds, that expatriation is not lawful among the Muscovites; and we know, that it is unlawful also among the English and Chinese. We know likewise, that Louis XIV. king of France,* declared, by an edict of the 13th of August 1669, that those of his subjects who should, without the permission of the government, emigrate from his dominions, with the intention never to return, should be punished with the forfeiture of life and goods. Before that period, it was lawful to emigrate from France, and it is so wherever the country is not a prison.† And if it is lawful for a subject to pass under the dominion of another prince, it must be so likewise for him to seek the

means of procuring an honest livelihood, and why may he not do it by entering into the land or sea service? In the United Provinces there is certainly no law to prevent it, and many Dutchmen, formerly, as well as within my own recollection, have served other sovereigns by sea as well as by land."

Thus with fidelity and impartiality, the utmost merits to which we aspire, we have reviewed this translation, which well deserves to be entitled a treatise, chapter by chapter, exhibiting such prominent features as in our opinion, deserved to be displayed; and extolling those principles of international law, which it appears to have been the object of both the author and translator to inculcate, and which we conceive it both the interest and honour of this country to defend and maintain. We should not have been so patriotick, if the intrinsick worth of those principles were not as clear, as is their identity with the neutral policy of the United States: and we are certainly rather the warmer in our eu-

* This edict was made with a view to the Protestants. It was in the same year that Louis the XIV. began to violate the edict of Nantz, by abolishing the *chambres mi-parties*, tribunals consisting of judges of both religions, which that edict had established—*Hénault, Abregé de l'Hist. de Fr. sub anno 1669*. He foresaw the immense emigration which its final repeal would produce, and thus vainly endeavoured to prevent it.

† By the first constitution of Pennsylvania, made on the 28th of September, 1776, it was declared, [c. 1. § 15] "that all men have a natural, inherent right to emigrate from one state to another that will receive them." 1 *Dallas's Laws of Penn. Appen. p. 54*. The present constitution merely provides [art. 9. § 25] "that emigration from the state shall not be prohibited." 3 *Dallas's Laws of Penn. p. xxii*.

The question, "whether it is lawful for a citizen to expatriate himself," has been brought several times, and in various shapes, before the Supreme Court of the United States. It was made a point, incidentally, in the case of *Talbot v. Jansen*, mentioned above. [p. 136] In that case, it appeared to be the opinion of the court, that expatriation is lawful, provided it is effected at such time, in such manner, and under such circumstances as not to endanger the peace or safety of the United States. "The cause of removal," said judge Patterson, "must be lawful, otherwise, the emigrant acts contrary to his duty, and is justly charged with a crime. Can that emigration be legal and justifiable, which commits or endangers the neutrality, peace, or safety of the nation of which the emigrant is a member?" 3 *Dallas's Reports*, 153.—"That a man," said judge Iredell, "ought not to be a slave; that he should not be confined against his will to a particular spot, because he happened to draw his first breath upon it; that he should not be compelled to continue in a society to which he is accidentally attached, when he can better his situation elsewhere; much less where he must starve in one country, and may live comfortably in another; are positions which I hold as strongly as any man, and they are such as most nations of the world appear clearly to recognise. The only difference of opinion is, as to the proper manner of exercising this right." *Ibid.* 162. Judge Cushing concurred in the general principle, that expatriation is lawful, and approved of the doctrine laid down on this subject by Heineccius,

logium, because a sense of propriety and the spirit of patriotism happen exactly to coincide. We will now briefly notice such demerits as appeared in the retrospect. There are in the book itself some assertions, to which we cannot subscribe; but as their authority is imposing, and to contradict them would have opened too long a discussion, they were not noticed. But with the translation we may be more free. In the first place then we will observe that though fidelity is indispensable, we would have been better pleased if in this instance it had been less adhered to, because Mr. Duponceau has great funds of his own, and need not have feared to draw on them. We trust that the reception of this work will be such as to induce him to favour us with others of the same character. And if a future opportunity should offer for improving this, we respectfully suggest that it might be done, by not only, as he almost apologises for doing, shortening Bynkershoek's Ciceronian periods; dividing his paragraphs; and adjusting his phrases to our idiom; but, provided he preserve the spirit

of the original, by enlarging his notes, and indulging himself in any such transposition or phraseology, as will make the style and even the work his own.

In the 4th chapter the Latin word *mores* is given by the English word *manners*; a meaning, which however it may sometimes be proper, does not belong to it in this place. Bynkershoek's expression is "in ipso Belgio Fœderato leges *moresque* repugnare, abunde persuadebunt, quæ hoc et sequenti capite proxime dicentur," which is thus translated by Mr. Duponceau, "what I shall say in this and the next chapter will abundantly prove that this custom is repugnant to the laws and *manners* of the United Provinces." In the beginning of the 5th chapter "*moribus* gentium obsolevisse" is again translated "have become obsolete by the gradual change of *manners*." In both these instances the English term should be *usage* or *practice*. The Latin root *mos*, and the French word *mœurs* branch, in English, into two distinct terms, *morals* and *manners*, perfectly distinguishable in our acceptation. In the beginning of

Elem. Jur. Nat. et Gent. l. 2. c. 10. "But," said he, "the act of expatriation should be *bonâ fide*, and manifested at least by the emigrant's actual removal, with his family and effects, into another country." *Ibid.* 169. In the case then before the court, no such removal had taken place.

In that of *Murray v. The Charming Betsey*, it was decided, that a citizen of the United States who has *bonâ fide* expatriated himself, is to be considered as an *alien* for commercial purposes. One Shattuck, a natural born citizen of the United States, had, for many years, resided with his family, and had been naturalized in the Danish island of St. Thomas. It was objected to him, that he had traded from that island with the French colonies, in fraud of an act of congress, by which all trade was interdicted to the citizens of the United States, with the dominions of France. But the court were of opinion, "that an American citizen may acquire, in a foreign country, the commercial privileges attached to his domicile, and be exempted from the operation of the general prohibitory laws of his native country." The court did not, however, determine, whether a citizen of the United States can divest himself absolutely of that character, otherwise than in such manner as may be prescribed by *our own laws*, nor whether his expatriation would be sufficient to rescue him from punishment, for a crime committed against the United States. 2 *Cranch's Reports*, 120.

And lastly, in the case of *M'Ilvaine v. Cox's lessee*, it was determined that a citizen of New Jersey, who had gone over to the enemy during the revolutionary war, and had, since that time, remained in England, enjoying the privileges of a British subject, had not ceased to be a citizen of New Jersey, and was entitled to claim lands by descent, in that state, because several laws had been made by its legislature, some before and others after his emigration, by which emigrants of that description were declared to be *fugitive citizens* and *traitors*, punishable as such, but were not considered as *aliens*. *Cranch's Reports*, vol. ii. p. 280. vol. iv. p. 209.

the 5th chapter "*quam in rem*," is translated "*whereupon*,"—"concerning which" we suggest as preferable. In the 8th chapter "*edicti de criminibus*" is translated "*criminal edict*," an expression, which excites an ambiguous idea, and for which might be substituted *penal edict*, or *edict concerning crimes*.

But upon the whole the translation, though somewhat too precise, is very correct—the style as flowing and easy, as a jurisprudential style well can be, and the entire execution of the performance such as to command full approbation. We strongly recommend every man who has read Lee, as soon as possible to read Duponceau. To such as have

read neither; to the statesman and the politician, the lawyer and the jurist, the merchant and the man of leisure, we recommend this work, as containing, in a convenient space, more useful knowledge of the laws of war and peace, that is to say of the laws of nations—a more satisfactory exposition of those principles, which however for the moment driven out of view, must reappear, grow with the growth of reason and good sense, and particularly strengthen with the strength of the United States of America, certainly than any other in the English language, and probably in any language whatever.

FROM THE EDINBURGH REVIEW.

Remarks on the System of Education in Publick Schools, 8vo. London, 1809.

THERE is a set of well dressed, prosperous gentlemen, who assemble daily at Mr. Hatchard's shop; clean, civil personages; well in with the people in power; delighted with every existing institution; and almost with every existing circumstance; and, every now and then, one of these personages writes a little book; and the rest praise that little book, expecting to be praised, in their turn, for their own little books; and, of these little books, thus written by these clean, civil personages, so expecting to be praised, the pamphlet before us appears to be one.

The subject of it is the advantage of publick schools; and the author, very creditably to himself, ridicules the absurd clamour, first set on foot by Dr. Rennel, of the irreligious tendency of publick schools. He then proceeds to an investigation of the effects which publick schools may produce upon the moral character; and here the subject becomes more difficult, and the pamphlet worse.

In arguing any large or general question, it is of infinite importance to attend to the first feelings which the mention of the topick has a tendency to excite; and the name of a publick school brings with it immediately the idea of brilliant classical attainments. But, upon the importance of these studies, we are not now offering any opinion. The only points for consideration are, whether boys are put in the way of becoming good and wise men by these schools; and whether they actually gather, there, those attainments which it pleases mankind, for the time being, to consider as valuable, and to decorate by the name of learning.

By a publick school, we mean an endowed place of education, of old standing, to which the sons of gentlemen resort in considerable numbers, and where they continue to reside, from eight or nine, to eighteen years of age. We do not give this as a definition which would have satisfied Porphyry or Duns-Scotus; but as one sufficiently accurate for our purpose. The characteristick fea-

tures of these schools are, their antiquity, the numbers, and the ages of the young people who are educated at them. We beg leave, however, to premise, that we have not the slightest intention of insinuating any thing to the disparagement of the present discipline or present rulers of these schools, as compared with other times and other men. We have no reason whatever to doubt that they are as ably governed at this, as they have been at any preceding period. Whatever objections we may have to these institutions, they are to faults, not depending upon present administration, but upon original construction.

At a publick school (for such is the system established by immemorial custom) every boy is alternately tyrant and slave. The power which the elder part of these communities exercises over the younger, is exceedingly great, very difficult to be controlled, and accompanied, not unfrequently, with cruelty and caprice. It is the common law of the place, that the young should be implicitly obedient to the elder boys; and this obedience resembles more the submission of a slave to his master, or of a sailor to his captain, than the common and natural deference which would always be shown by one boy to another a few years older than himself. Now, this system we cannot help considering as an evil, because it inflicts upon boys, for two or three years of their lives, many painful hardships, and much unpleasant servitude. These sufferings might, perhaps, be of some use in military schools; but, to give to a boy the habit of enduring privations to which he will never again be called upon to submit, to inure him to pains which he will never again feel, and to subject him to the privation of comforts, with which he will always in future abound, is surely not a very useful and valuable severity in education. It is not the life in miniature which he is to lead

hereafter, nor does it bear any relation to it. He will never again be subjected to so much insolence and caprice; nor ever, in all human probability, called upon to make so many sacrifices. The servile obedience which it teaches, might be useful to a menial domestick; or the habits of enterprise which it encourages, prove of importance to a military partisan; but we cannot see what bearing it has upon the calm, regular, civil life, which the sons of gentlemen, destined to opulent idleness, or to any of the three learned professions, are destined to lead. Such a system makes many boys very miserable; and produces those bad effects upon the temper and disposition, which unjust suffering always does produce; but what good it does we are much at a loss to conceive. Reasonable obedience is extremely useful in forming the disposition. Submission to tyranny lays the foundation of hatred, suspicion, cunning, and a variety of odious passions. We are convinced that those young people will turn out to be the best men, who have been guarded most effectually, in their childhood, from every species of useless vexation; and experienced, in the greatest degree, the blessings of a wise and rational indulgence. But even if these effects upon future character are not produced, still, four or five years in childhood make a very considerable period of human existence; and it is by no means a trifling consideration whether they are passed happily or unhappily. The wretchedness of school tyranny is trifling enough to a man who only contemplates it, in case of body and tranquillity of mind, through the medium of twenty intervening years; but it is quite as real, and quite as acute, while it lasts, as any of the sufferings of mature life: and the utility of these sufferings, or the price paid in compensation for them, should be clearly made out to a con-

scientious parent, before he consents to expose his children to them.

This system also gives to the elder boys an absurd and pernicious opinion of their own importance, which is often with difficulty effaced by a considerable commerce with the world. The *head* of a publick school is generally a very conceited young man, utterly ignorant of his own dimensions, and losing all that habit of conciliation towards others, and that anxiety for self improvement, which result from the natural modesty of youth. Nor is this conceit very easily and speedily gotten rid of. We have seen (if we mistake not) publick school importance lasting through the half of after life, strutting in lawn, swelling in ermine, and displaying itself, both ridiculously and offensively, in the haunts and business of bearded men.

There is a manliness in the athletick exercises of publick schools, which is as seductive to the imagination as it is utterly unimportant in itself. Of what importance is it in after life, whether a boy can play well or ill at cricket; or row a boat with the skill and precision of a waterman? If our young lords and esquires were hereafter to wrestle together in publick, or the gentlemen of the bar to exhibit Olympick games in Hilary term, the glory attached to these exercises of publick schools would be rational and important. But of what use is the body of an athlete, when we have good laws over our heads, or when a pistol, a postchaise, or a porter, can be hired for a few shillings? A gentleman does nothing but ride or walk; and yet such a ridiculous stress is laid upon the manliness of the exercises customary at publick schools, exercises in which the greatest blockheads commonly excel the most, as often render habits of idleness inveterate, and often lead to foolish expense and dissipation at a more advanced period of life.

One of the supposed advantages of a publick school, is the greater knowledge of the world which a boy is considered to derive from those situations; but if, by a knowledge of the world, is meant a knowledge of the forms and manners which are found to be the most pleasing and useful in the world, a boy from a publick school is almost always extremely deficient in these particulars; and his sister, who has remained at home at the apron strings of her mother, is very much his superior in the science of manners. It is probably true, that a boy at a publick school has made more observations on human character, because he has had more opportunities of observing, than have been enjoyed by young persons educated either at home or at private schools; but this little advance gained at a publick school, is so soon overtaken at college or in the world, that, to have made it, is of the least possible consequence, and utterly undeserving of any risk incurred in the acquisition. Is it any injury to a man of thirty or thirty-five years of age; to a learned serjeant or a venerable dean, that at eighteen they did not know so much of the world as some other boys of the same standing? They have probably escaped the arrogant character so often attendant upon this trifling superiority; nor is there much chance that they have ever fallen into the common and youthful error of mistaking a premature initiation into vice, for a knowledge of the ways of mankind: and, in addition to these salutary exemptions, a winter in London brings it all to a level; and offers to every novice the advantages which are supposed to be derived from this precocity of confidence and polish.

According to the general prejudice in favour of publick schools, it would be thought quite as absurd and superfluous to enumerate the illustrious characters who have been

bred at our three great seminaries of this description, as it would be to descant upon the illustrious characters who have passed in and out of London over our three great bridges. Almost every conspicuous person is supposed to have been educated at publick schools, and there are scarcely any means (as it is imagined) of making an actual comparison; and yet, great as the rage is, and long has been, for publick schools, it is very remarkable, that the most eminent men in every art and science have not been educated in publick schools; and this is true, even if we include, in the term of publick schools, not only Eton, Winchester, and Westminster, but the Charter-house, St Paul's school, Merchant Taylors, Rugby, and every school in England, at all conducted upon the plan of the three first. The great schools of Scotland we do not call publick schools; because, in these, the mixture of domestick life gives to them a widely different character. Spenser, Pope, Shakespeare, Butler, Rochester, Spratt, Parnell, Garth, Congreve, Gay, Swift, Thomson, Shenstone, Akenside, Goldsmith, Samuel Johnson, Beaumont and Fletcher, Ben Johnson, Sir Philip Sidney, Savage, Arbuthnot, and Burns, among the poets, were not educated in the system of English schools. Sir Isaac Newton, Maclaurin, Wallis, Hamstead, Saunderson, Simpson, and Napier, among men of science, were not educated in publick schools. The three best historians that the English language has produced, Clarendon, Hume, and Robertson, were not educated at publick schools. Publick schools have done little in England for the fine arts, as in the examples of Inigo Jones, Vanburgh, Reynolds, Gainsborough, Garrick, &c. The great medical writers and discoverers in Great Britain, Harvey, Cheseldon, Hunter, Jenner, Meade, Brown and Cullen, were not educated at publick schools. Of the great writers

on morals and metaphysicks, it was not the system of publick schools which produced Bacon, Shaftesbury, Hobbes, Berkley, Butler, Hume, Hartley, or Dugald Stewart. The greatest discoverers in chymistry have not been brought up at publick schools; we mean Dr. Priestly, Dr. Black, and Mr. Davy. The only Englishmen who have evinced a remarkable genius, in modern times, for the art of war; the duke of Marlborough, lord Peterborough, general Wolfe, and lord Clive, were all trained in private schools. So were lord Coke, sir Matthew Hale, and lord chancellor Hardwick, and chief justice Holt, among the lawyers. So also, among statesmen, were lord Burleigh, Walsingham, the earl of Strafford, Thurloe, Cromwell, Hampden, lord Clarendon, sir Walter Raleigh, Sydney, Russel, sir W. Temple, lord Somers, Burke, Sheridan, Pitt. In addition to this list, we must not forget the names of such eminent scholars and men of letters, as Cudworth, Chillingworth, Tillotson, archbishop King, Selden, Conyers, Middleton, Bentley, sir Thomas Moore, cardinal Wolsey, bishops Sherlock and Wilkins, Jeremy Taylor, Isaac Hooker, bishops Usher, Stillingfleet and Spelman, Dr. Samuel Clark, bishop Hoadley and Dr. Lardner. Nor must it be forgotten, in this examination, that none of the conspicuous writers upon publick economy which this country has as yet produced, have been brought up in publick schools. If it be urged that publick schools have only assumed their present character within this last century, or half century, and that what are now called publick schools, partook, before this period, of the nature of private schools, there must then be added to our lists, the names of Milton, Dryden, Addison, &c. &c. and it will follow, that the English have done almost all that they have done in the arts and sciences, without the aid of that system of education to

which they are now so much attached. Ample as this catalogue of celebrated names already is, it would be easy to double it; yet, as it stands, it is obviously sufficient to show that great eminence may be attained in any line of fame, without the aid of publick schools. Some more striking inferences might, perhaps, be drawn from it; but we content ourselves with the simple fact.

The most important peculiarity in the constitution of a publick school is its numbers, which are so great, that a close inspection of the master into the studies and conduct of each individual is quite impossible. We must be allowed to doubt, whether such an arrangement is favourable either to literature or morals.

Upon this system, a boy is left almost entirely to himself, to impress upon his own mind, as well as he can, the distant advantages of knowledge, and to withstand, from his own innate resolution, the examples and the seductions of idleness. A firm character survives this brave neglect; and very exalted talents may sometimes remedy it by subsequent diligence. But schools are not made for a few youths of preeminent talents, and strong characters; such prizes can, of course, be drawn but by a very few parents. The best school is that which is best accommodated to the greatest variety of characters, and which embraces the greatest number of cases. It cannot be the main object of education to render the splendid more splendid, and to lavish care upon those who would almost thrive without any care at all. A publick school does this effectually; but it commonly leaves the idle almost as idle, and the dull almost as dull, as it found them. It disdains the tedious cultivation of those middling talents, of which only the great mass of human beings are possessed. When a strong desire of improvement exists, it is encouraged, but no means are taken to inspire it. A boy is cast in among

five or six hundred other boys, and is left to form his own character; if his love of knowledge survives this severe trial, it, in general, carries him very far; and, upon the same principle, a savage, who grows up to manhood, is, in general, well made, and free from all bodily defects; not because the severities of such a state are favourable to animal life, but because they are so much the reverse, that none but the strongest can survive them. A few boys are incorrigibly idle, and a few incorrigibly eager for knowledge; but the great mass are in a state of doubt and fluctuation; and they come to school, for the express purpose not of being left to themselves (for that could be done any where) but that their wavering tastes and propensities should be decided by the intervention of a master. In a forest, or publick school for oaks and elms, the trees are left to themselves; the strong plants live, and the weak ones die. The towering oak that remains is admired; the saplings that perish round it are cast into the flames and forgotten. But it is not, surely, to the vegetable struggle of a forest, or the hasty glance of a forester, that a botanist would commit a favourite plant. He would naturally seek for it a situation of less hazard, and a cultivator whose limited occupations would enable him to give to it a reasonable share of his time and attention. The very meaning of education seems to us to be, that the old should teach the young, and the wise direct the weak; that a man who professes to instruct, should get among his pupils; study their characters; gain their affections; and form their inclinations and aversions. In a publick school, the numbers render this impossible; it is impossible that sufficient time should be found for this useful and affectionate interference. Boys, therefore, are left to their own crude conceptions, and ill-formed propensities; and this neglect is

called a spirited and manly education.

In by far the greatest number of cases, we cannot think publick schools favourable to the cultivation of knowledge; and we have equally strong doubts if they be so to the cultivation of morals, though we admit, that, upon this point, the most striking arguments have been produced in their favour.

It is contended by the friends to publick schools, that every person, before he comes to man's estate, must run through a certain career of dissipation; and if that career is, by the means of a private education, deferred to a more advanced period of life, it will only be begun with greater eagerness, and pursued into more blamable excess. The time must, of course, come, when every man must be his own master; when his conduct can be no longer regulated by the watchful superintendence of another, but must be guided by his own discretion. Emancipation must come at last; and we admit, that the object to be aimed at is, that such emancipation should be gradual and not premature. Upon this very invidious point of the discussion, we rather wish to avoid offering any opinion. The manners of great schools vary considerably from time to time; and what may have been true many years ago, is very possibly not true at the present period. In this instance, every parent must be governed by his own observations and means of information. If the license which prevails at publick schools is only a fair increase of liberty, proportionate to advancing age, and calculated to prevent the bad effects of a sudden transition from tutelary thralldom to perfect self government, it is certainly a good, rather than an evil. If, on the contrary, there exists in these places of education a system of premature debauchery, and if they only prevent men from being corrupted by the world, by corrupting them

before their entry into the world, they can then only be looked upon as evils of the greatest magnitude, however they may be sanctioned by opinion, or rendered familiar to us by habit.

The vital and essential part of a school, is the master; but, at a publick school, no boy, or, at the best, only a very few, can see enough of him to derive any considerable benefit from his character, manners, and information. It is certainly of eminent use, particularly to a young man of rank, that he should have lived among boys; but it is only so when they are all moderately watched by some superiour understanding. The morality of boys is generally very imperfect; their notions of honour extremely mistaken; and their objects of ambition frequently very absurd. The probability then is, that the kind of discipline they exercise over each other will produce (when left to itself) a great deal of mischief; and yet this is the discipline to which every child at a publick school is not only necessarily exposed, but principally confined. Our objection (we again repeat) is not to the interference of boys in the formation of the character of boys; their character, we are persuaded, will be very imperfectly formed without their assistance; but our objection is, to that almost exclusive agency which they exercise in publick schools.

After having said so much in opposition to the general prejudice in favour of publick schools, we may be expected to state what species of school we think preferable to them; for if publick schools, with all their disadvantages, are the best that can actually be found, or easily attained, the objections to them are certainly made to very little purpose.

We have no hesitation, however, in saying, that that education seems to us to be the best, which mingles a domestick with a school life; and which gives to a youth the advantage

which is to be derived from the learning of a master, and the emulation which results from the society of other boys, together with the affectionate vigilance which he must experience in the house of his parents. But where this species of education, from peculiarity of circumstances or situation, is not attainable, we are disposed to think, a society of twenty or thirty boys, under the guidance of a learned man, and, above all, of a man of good sense, to be a seminary the best adapted for the education of youth. The numbers are sufficient to excite a considerable degree of emulation, to give to a boy some insight into the diversities of the human character, and to subject him to the observation and control of his superiours. It by no means follows, that a judicious man should always interfere with his authority and advice, because he has always the means; he may connive at many things which he cannot approve, and suffer some little failures to proceed to a certain extent, which, if indulged in wider limits, would be attended with irretrievable mischief.

He will be aware, that his object is, to fit his pupil for the world; that constant control is a very bad preparation for complete emancipation from all control; that it is not bad policy to expose a young man, under the eye of superiour wisdom, to some of those dangers which will assail him hereafter in greater number, and in greater strength; when he has only his own resources to depend upon. A private education, conducted upon these principles, is not calculated to gratify, quickly, the vanity of a parent who is blest with a child of strong character and preeminent abilities. To be the first scholar of an obscure master, at an obscure place, is no very splendid distinction, nor does it afford that opportunity, of which so many parents are desirous, of forming great connexions for their children. But if the object be, to induce the young to love knowledge and virtue, we are inclined to suspect, that, for the average of human talents and characters, these are the situations in which such tastes will be the most effectually formed.

FROM THE EDINBURGH REVIEW.

Ta Tsing Leu Lee; being the Fundamental Laws, and a Selection from the supplementary Statutes of the Penal Code of China; originally printed and published in Peking, in various successive Editions, under the Sanction and by the Authority of the several Emperours of the Ta Tsing, or present Dynasty. Translated from the Chinese; and accompanied with an Appendix, consisting of authentick Documents and a few occasional Notes, illustrative of the Subject of the Work. By Sir George Thomas Staunton, Bart. F. R. S. 4to. pp. 581. London, 1810.

THE Chinese have not hitherto had very fair play in Europe. The first missionaries, from the natural propensity of all discoverers to magnify the importance of their discovery, gave a most exaggerated account of their merits and attainments; and then came a set of philosophers, who, from their natural

love of paradox, and laudable zeal to depreciate that part of their species with which they are best acquainted, eagerly took up and improved upon the legends of the holy fathers, till they had not only exalted those remote Asiatics above all European competition, but had transformed them into a sort of biped

Houyhnhms; the creatures of pure reason and enlightened beneficence. This extravagance, of course, provoked an opposite extravagance; and De Pauw and others, not contented with denying the virtues and sciences of the Chinese, called equally in question their numbers, their antiquity, and their manual dexterity; and represented them as among the most contemptible and debased of the barbarians, to whom all but Europe seemed to have been allotted in perpetuity. More moderate and rational opinions at length succeeded; and, when our embassy entered the country in 1793, the intelligent men who composed it were as little inclined, we believe, to extol the Chinese, from childish admiration, or out of witty malice, as to detract from their real merits, because they appeared under an outlandish aspect, or had been overpraised by some of their predecessors. The effect of this aspect, however, and this overpraise, were still visible, we think, in the different opinions of the candid and intelligent persons to whom we have alluded. The noble lord who was at the head of the mission, appears, on the whole, to have formed a higher estimate of this singular people than any of the persons of his train. His ingenious and enlightened secretary, sir George Staunton, seems to have wavered a good deal as to the point of the scale at which he should place them; and Mr. Barrow, though infinitely more accurate and candid than De Pauw, is evidently actuated by something of the same pique or antipathy to the formal orientals, which has given so singular a colouring to most of the statements and observations of that zealous philosopher.

While the opinions of the best informed persons were thus at variance on the subject, it was particularly to be regretted, that there were scarcely any documents before the publick, from which they could, with

safety, form a judgment for themselves. The translations exhibited by the missionaries were mostly from works of fancy; and these were said to be so coloured and adorned in their versions, as to convey no idea whatever either of the taste, style, or character of the people; while the statements made, as to matters of science and government, were far too general to serve as the foundation of any important conclusions. It is rather remarkable, indeed, that, notwithstanding the great commercial intercourse which England has now maintained with China, for more than a century, the work before us should have been the very first ever rendered out of that language directly into our own. It appears to us, however, to be at least as important in itself, as it is remarkable for its rarity. It contains, as the title imports, the authentick text of the whole penal law of China; and as their peculiar system of jurisprudence has attached a certain publick punishment to the violation or neglect of almost every civil obligation, their penal law comprises an incidental view of their whole system of legislation. Now, there certainly is no one document from which we may form a judgment of the character and condition of any nation, with so much safety as from the body of their laws; and when these are presented to us, not in the partial abstracts of their admirers or detractors, but in the original fulness and nakedness of their 'authentick' statutes, the information which they afford may fairly be considered as paramount to all that can be derived from other sources. The representations of travellers, even where their fidelity is liable to no impeachment, will almost always take a tinge from their own imagination or affections; and, where enthusiasm or controversy have any place in the discussion, there is an end to all prospect of accuracy or justice. The laws of a people, how-

ever, are actual specimens of their intellect and character; and may lead the reflecting observer, to whom they are presented, in any corner of the world, to a variety of important conclusions that did not occur to the individual by whom they were collected. In such a work, the legislator inevitably paints both himself and the people for whom he legislates; and, as nothing here depends upon the colouring of style or ornament, nothing short of intentional fabrication in the translator, can prevent us from forming a correct notion of the original. In the case before us, however, we have not only every reason to believe that the translation is perfectly just and accurate, but think we can discover, in the translator, such candour and coolness of judgment, as would entitle him to be trusted in a matter of far greater temptation.

Sir George Staunton, in an introduction of considerable length, but which its clearness, modesty, and intelligence, made us wish longer, has presented us with an interesting sketch of the general character of the Chinese institutions; and endeavoured, though with a visible leaning in their favour, to mediate between those who had exaggerated their pretensions, and those who had been offended at the disappointment of extravagant expectations. He confesses, that the romantick ideas which had been diffused by the writings of some of the missionaries, were far, indeed, from being realized by an actual inspection of the Chinese.

"Their knowledge," he observes, "was perceived to be defective in those points in which we have, in Europe, recently made the greatest progress, and to which we are therefore proportionately partial. Their virtues were found to consist more in ceremonial observances, than in moral duties; more in profession, than in practice; and their vices, when traced and discovered, upon occasions where they were the least expected, seemed to deserve a

more than ordinary degree of reprobation. —*Trans. Pref. p. ix.*

In spite of all this, he observes, that this nation will be found to possess certain considerable advantages, both in a moral and political view, which are not to be exactly paralleled in any European society. These he ascribes, in a very brief and philosophical enumeration,

—"to their system of early and universal marriage, except, indeed, as far as that system may be considered to conduce to the misfortune of a redundant population; to the sacred regard that is habitually paid to the ties of kindred; to the sobriety, industry, and even intelligence of the lower classes; to the almost total absence of feudal rights and privileges; to the equable distribution of landed property; to the natural incapacity and indisposition of the government and people to an indulgence in ambitious projects and foreign conquests; and lastly, to a system of penal laws, if not the most just and equitable, at least the most comprehensive, uniform, and suited to the genius of the people for whom it is designed, perhaps of any that ever existed." —*Trans. Preface, p. xi.*

Upon the whole, he thinks it reasonable to conclude, that a philosopher who should survey this people with an enlightened and liberal indulgence, would probably find "something to compensate the evils he had justly reprobated and lamented; and might even have at last determined, that a considerable proportion of the opinions most generally entertained by Chinese and Europeans of each other, was to be imputed either to prejudice, or to misinformation; and that, upon the whole, it was not allowable to arrogate, on either side, any violent degree of moral or physical superiority." —*Trans. Pref. p. ix.*

Though we approve very much of the spirit of these observations, we cannot yet persuade ourselves to acquiesce in the equation with which they conclude. Yet if Sir George Staunton's statements are to be relied on, and every thing about them

entitles them to the highest authority; the intellectual condition of the Chinese must be a subject of more curious investigation than the best of our recent accounts would lead us to believe.

The elements of literature, by which we suppose is meant the art of reading the easiest and most simple characters, are almost universally diffused among the natives; and this accomplishment is fostered and rewarded, by an infinite multitude of publications, upon all subjects but those connected with the government of the country, and particularly in the departments of poetry and the *belles lettres*. These works are multiplied by a clumsy species of printing, which has been practised among them for time immemorial; and every considerable city contains various booksellers' shops, where a great variety of publications may always be purchased.

The extreme difficulty of the written language is acknowledged by sir George Staunton; and, unfortunately, this difficulty increases pretty nearly in the same proportion with the merit of their works of poetry and eloquence. In compositions which have nothing to do with words, all the beauties of versification, rythm, and every thing that is called style in other languages, is of course out of the question. Their poetry does not consist of verses, nor their oratory of periods; but both are distinguished from the pictures of their ordinary thoughts by the use of less obvious and more ingenious metaphors, and by a selection of characters, the elementary parts of which present a series of pleasing ideas, though the signification of the whole may not be different from that of some ordinary character. Compositions of this kind do not, of course, admit of translation; and, as the genius of the language rejects the aid of common particles of connexion, and presents merely a string of detached images, the relations of

which the reader is left to find from their intrinsick qualities, it is easy to conceive how infinitely laborious the task must be, of decyphering their more elaborate and ornamental compositions. We learn, accordingly, from sir George Staunton, that one of the missionaries, who was most thoroughly acquainted with the language, and was highly distinguished among the Chinese themselves for proficiency in their literature, declared, that he should never have been able to read or translate a celebrated, imperial poem, which he entitles "*Eloge De Mougden*," without referring, occasionally, to a previous translation of it into the language of the Manchoo Tartars.

The elementary books of the laws, however, the translator assures us, are composed in a much simpler style; and, being intended for the perusal of the whole body of the people, consist, almost entirely, of the easiest and most simple characters. This circumstance, joined to their great importance in illustrating the character and condition of the people, recommended them, in a peculiar manner, as a subject for translation, and as calculated to afford a safe and satisfactory specimen, both of Chinese composition and of Chinese legislation.

As sir George Staunton considers it (upon grounds which we hope he will hereafter elucidate more fully) as one of the facts most incontestably proved in history, that the Chinese were united under a regular government, and in no low state of civilisation, at least as early as the third century before our era, it might have been expected that, among a people so tenacious of old usages, their fundamental, penal code should have been deduced from a very remote antiquity. Their great love of their ancestors, however, gives place, it seems, to their greater love for their reigning emperour; and, on the accession of every new dynasty, it is the custom to make a sort of

redaction, or new edition, of the subsisting statutes, which takes the name of the reigning family, and forms the *Leu*, or fundamental code, during the subsistence of that race; all the additional statutes being subjoined in a subordinate form, as supplementary clauses of explanation or commentary, called *Lee*, to this immutable text. Upon the accession of a new dynasty, such parts, both of text and supplement, as are approved of, are incorporated into a new text, which takes the name of that family, and receives successive increments in the form of *Lee*, during all the period that it possesses the sovereignty. The present dynasty is that of *Tsing*, which ascended the throne only in the year 1644; and the date of the present fundamental code cannot, therefore, be quite so ancient. This, however, it is obvious, is only true of its present form and arrangement, or rather of its authoritative publication under that form; for, in a nation where the veneration for antiquity and established usage is so strong as to form the chief security of the government, and the chief obstacle to improvement among the people, it is impossible not to conclude, that by far the greater part of the code thus promulgated, would consist of the identical precepts and regulations which had been enforced, from time immemorial, among this unchanging people. The earliest compilation of which sir George Staunton has procured any authentick intelligence, is ascribed to a worthy of the name of *Lee-Quee*, who is supposed to have lived about 250 years before Christ, and who does not appear to have been the author of any of the laws which he collected. The greater part of the present code, sir George supposes to be at least as old as the time now mentioned; and much of it, he thinks, may be reasonably presumed to be far more ancient. It is peculiarly uncomfortable, however, to be left to conjecture upon

a point of this nature; as, even though we were assured that nine-tenths of the whole work was of very great antiquity, it is impossible to be quite certain that this is the case as to any particular regulation or prescription, the antiquity of which might lead to the most interesting conclusions. There are some laws, in particular, that bear so remarkable an affinity to modern European institutions, that it would be very desirable to know with certainty that they had been very anciently enacted among the antipodes.

To have translated the whole *Leu Lee*, that is, the fundamental text, and all the supplementary clauses, would, it seems, have rendered the work far too voluminous. Sir George Staunton has, therefore, given only the former in the body of the work, marking, at the end of every section, how many *Lee*, or additional clauses, are subjoined to it in the original, and engrossing such of them as appear curious or important, in an appendix, which contains a great number of other valuable elucidations.

Our readers, we suppose, would not thank us for an exact account of the divisions, books, and sections of this Chinese code, with a mere list of their titles, and of the subjects of which they treat. It will probably suit their purpose better, if we endeavour, in the first place, to point out what struck us as most remarkable in the general character of the work, and then specify such of its enactments as appear to us to throw any valuable light on the genius and condition of the people, or on the nature of their peculiar institutions.

And here we will confess, that by far the most remarkable thing in this code, appeared to us to be its great reasonableness, clearness, and consistency; the business-like brevity and directness of the various provisions, and the plainness and moderation of the language in which they are expressed. There is nothing,

here, of the monstrous *verbiage* of most other Asiatick productions; none of the superstitious deliration, the miserable incoherence, the tremendous *non sequiturs* and eternal repetitions of those oracular performances; nothing even of the turgid adulation, the accumulated epithets, and fatiguing self praise of other eastern despotisms; but a calm, concise, and distinct series of enactments, savouring, throughout, of practical judgment and European good sense, and, if not always conformable to our improved notions of expediency in this country, in general approaching to them more nearly than the codes of most other nations. When we pass, indeed, from the ravings of the Zendavesta, or the Puranas, to the tone of sense and of business of this Chinese collection, we seem to be passing from darkness to light; from the drivings of dotage to the exercises of an improved understanding. And, redundant and absurdly minute as these laws are, in many particulars, we scarcely know any European code that is at once so copious and so consistent, or that is nearly so free from intricacy, bigotry, and fiction. In every thing relating to political freedom or individual independence, it is, indeed, wofully defective; but, for the repression of disorder, and the gentle coercion of a vast population, it appears to us to be, in general, equally mild and efficacious. The state of society for which it was formed appears, incidentally, to be a low and a wretched state of society; but we do not know that wiser means could have been devised for maintaining it in peace and tranquillity.

To justify what we have said of the European reasonableness of the Chinese official style, we shall here lay before our readers a few sentences from a singular state paper, or edict, of the late emperor Kien-Lung, which is translated by sir George Staunton, in his appendix. This is a sort of valedictory address

to his people, published by that celebrated monarch a year or two after he had resigned the sceptre to his son, and when the increasing infirmities of extreme old age began to give intimation of his approaching end. The reasonableness, mildness, and simplicity of this extraordinary paper, is rather greater than we should expect from any of our European secretaries of state; and has in it more of a gentle and paternal tone than we should have looked for from a veteran despot.

“When the administration of this empire was committed to our charge, we, indeed, beheld before us a task of serious difficulty; but we were rendered thereby, only more earnest and solicitous in avoiding all deviation from the strict line of conduct we had prescribed to ourselves. All parts of our various and widely extended domains, shared equally our attention; and frequently, during the darkness of the night, as well as at the middle hour of the day, we have attended, unconscious of fatigue, in the councils of our ministers, for the purpose of communicating our decisions on their reports, and of issuing new ordinances for the publick weal, that thus no day might be permitted to pass away, without having been duly filled and employed.”

“Thus, during the long and eventful period of our reign, the weighty affairs of government have been the objects of our constant regard; and, deeply impressed with the critical importance of the charge, we never ventured to pronounce the objects of government to have been so completely attained, or the peace of the empire so immutably established, as to admit of our relaxing our efforts, or indulging in repose.

“Ultimately, however, we recalled to our recollection the mental prayer which we had addressed to the Supreme Being on our accession to the imperial dignity, and in which we had made a solemn intimation of our intention to resign, to our son and successor, the sovereignty of the realm, if the Divine Will should grant to our reign a sixty years continuance; forasmuch as we were unwilling to exceed, in any case, the duration of our imperial grandfather's government.”

“Accordingly, on the first day of the year *Ping-shin*, we transferred to our son, the present emperor, the seals of the sovereign authority, reserving to ourself

the title of **MOST HIGH EMPEROUR**, as a distinctive appellation; thus accomplishing, in the end, what, in our solemn invocation to Heaven, we had originally proposed."

"We have already attained the eighty ninth year of our age. Therefore but a few short years are wanting to complete the utmost period of longevity. It then only further behoves us reverently to employ the remaining days of our life, and patiently to await the hour which is to conclude it."

"Shortly after we had received the congratulations of our ministers, in the hall of audience in the palace of *Kan-tsing-kung*, on the first day of the new year, our appetite wholly failed us; we are now also sensible that our faculties of sight and hearing are declining apace.

"The emperor, our son, has, indeed, been piously engaged in procuring medical assistance, and assiduously attentive in seeking the means most likely to conduce to our recovery; but we feel that at our advanced period of life, medicine can prove of very little avail, and, therefore, make this preparation previous to the last mortal paroxysm of disease. After a long succession of years, we are about to close a reign sustained with caution and assiduity, and invariably favoured by the distinguished protection of Heaven, and of our ancestors. We are now about to resign for ever the administration of this empire; but shall leave it in the hands of the emperor, our son, whose eminent abilities and pious dispositions are in every respect, conformable to our wishes, and will, doubtless, ensure to him a felicity like ours in his future undertakings; an idea which furnishes us with the most grateful consolation." p 482.

The next thing that strikes us as remarkable in this collection, is the excessive and unprofitable accuracy and minuteness of its regulations; the constant desire to regulate every thing whatever; to interfere in every action; and to fix immutably, beforehand, the effect of every shade of distinction which a case may receive from its circumstances. Thus, the foundation of the whole code is laid in fixing a scale of punishments, rising through twenty degrees, from ten blows with the bamboo to 100 blows; to sixty blows, with banishment for one year to the distance of

150 miles; to 100 blows, and perpetual banishment to the distance of 1500 miles; to death, by strangling, by decollation, or by torture; and in case of any offence, the legal punishment is directed to be increased or diminished by a certain number of those degrees, according to the circumstances of aggravation or palliation by which it may be attended. In like manner, the punishment of theft is made to vary, according to the value of the thing stolen, from ten blows with the bamboo, to death by strangling; and all the considerations of stealing under trust, or from the publick, or from relations, are made to aggravate or diminish the punishment by a certain number of those degrees. Besides all this, almost all the actions of a man's life are subjected to the control of the government; and its penal sanctions are incurred for improprieties of the most domestic nature, and even for the most innocent transactions, if entered into without its special license. Thus, a man is severely punished for marrying while his parents are in prison, or within three years after their death, or for neglecting to pay honour to their sepulchres; and also for acting as a commercial agent, or even for killing his own oxen, without a written permission from the magistrate; for dressing himself in an unsuitable manner; for allowing his lands to lie waste; or neglecting to pay interest for borrowed money. Now, this extraordinary minuteness and oppressive interference with the freedom of private conduct, is not to be considered merely as arising from that passion for governing too much, which is apt to infest all persons in possession of absolute power; but appears to us to indicate a certain stage in the progress of society, and to belong to a period of civilisation, beyond which the Chinese have not yet been permitted to advance.

The first efforts of legislation, in all countries, are very short and ge-

neral; and consist, for the most part, in little else than the brief and authoritative enunciation of some of the great and obvious maxims of morality, or some of the established usages to which the society had previously conformed. Such are the decalogue of Moses; the laws of the twelve tables; and the primitive laws of the Persians and other rude nations. When society has advanced a little, however, and governments have become strong, the legislator takes a much more ambitious aim. Delighted with the effect of his own regulations of police, and the convenience of his own fixed and arbitrary rules of proceeding, he endeavours to extend the same rigid order through all the departments of life; he represses irregularities merely in order to realize an ideal notion of perfection, and labours to subject the whole frame of human society to a law of uniformity and subordination, under which it is not calculated to flourish.

In the exultation of their first triumph over the lawless disorders of savage life, the first reformers of the world seem to have thought that it was impossible to have too much law or too much order; and, having fixed, in their own minds, how it could be best and most convenient that men should live together, to have aimed at enforcing the essential and the insignificant parts of their system with the same indiscriminating earnestness. Having uppermost in their thoughts the dangers of a tumultuary and uncontrolled state of society, they set a most exaggerated value on coercive regulations; and, forgetting altogether both the suffering and the debasement that was to result from the destruction of individual freedom, thought of nothing but of enforcing and reducing to practice their own schemes of permanent control and complete superintendence.

It is upon this principle, as it appears to us, that society has, in all quarters of the world, been so fre-

quently moulded by the violence of its early rulers into a form altogether forced and unnatural, and been crushed into artificial regularity, to the obstruction of all its happy and healthy movements. To this source, we conceive, are to be referred the institution of *castes* in India and in ancient Egypt; the inflexible and intolerable discipline of Sparta; a great part of the military array of the feudal-system; the distinctions and ceremonies of the tribes of the South Sea and North America; the burdensome police and subdivisions imputed to Alfred in Old England; and, perhaps, the impassable boundaries which existed, till lately, between the noblesse and the commonalty in continental Europe. In all these institutions we see a love of regularity, and of complete and thoroughgoing control, interfering, at a very early period, with the natural freedom and equality of men; and endeavouring, with a forcible and jealous hand, to repress all those movements of individual indulgence or ambition, from the greater excesses of which, society had at that time, perhaps, more need of protection.

As real civilisation advanced, however, this control was felt to be both grievous and unnecessary; a more liberal system was gradually introduced; and, wherever human intellect expanded, and national prosperity rose high, the bands of this barbarick regularity were burst asunder. Members of a truly well regulated state were left to a freedom which appeared frightful and pernicious to the keepers of a half tamed generation; and men were restored to every degree of independence that did not manifestly endanger the safety of their neighbours. Then, at last, it was discovered, that the irksome discipline of a school could not be advantageously continued towards men of mature growth and understanding; that individual happiness and comfort (which were the ends of all government) were of

more value than the preservation of a vain and fantastick uniformity; and that the hazard of occasional disorder was but a cheap price to be paid for the spirit of enterprise and exertion. Stocks and stones, it was perceived, might be wrought, with advantage, into forms of perfect and immutable symmetry; but men, like plants, could only flourish when they were free; and if the gardening was bad which planted trees in triangles and clipped them into cones, the policy was worse which subjected men, in their private functions, to the control of government, and drilled them into spiritless subjection, by the perpetual visitation of the law.

In the spirit of this policy, however, and in the stage of society by which it is engendered, does the Chinese code appear to have been framed; and to this general and widely operating cause, are we inclined to refer its jealous and vexatious interference with the ordinary duties of individuals. Its minute and anxious attempts at accuracy in distinguishing cases and proportioning punishments, originate in the same blind love of regularity, and will be found to correspond exactly with the institutions of other countries, while under the influence of the same principle. In Hindoostan where this systematick spirit has perhaps been carried the most unrelenting length, and been longest maintained, the distinctions are still more ludicrously minute, and the scale of punishment graduated with more elaborate ingenuity. In China, the legislator thought he went far enough, when he specified the precise penalty for tearing off two *tse* of hair, or for throwing filth and ordure on another. The Hindoo, however, has had the precaution to provide an appropriate rate of punishment for the offence of throwing the *wax of the ears*, or the *parings of the nails* at one's neighbour; and even to vary the pain according as those

substances are thrown on the upper or the under part of the body, or on the back part or the fore. In ancient Europe, there was the same fantastick and preposterous minuteness; the table of pains, indeed, was different; and as our ancestors were of too high a spirit to submit to being flogged, consisted, for the most part, in pecuniary fines. In Wales, where specie was less abundant, the law laid on the mulct in grain; and the operation of the same spirit is visible in the anxiety with which the Chinese code directs certain offences to be expiated by 50 blows inflicted on the posteriors with a piece of bamboo, five *tsun* in length, one and a half *tsun* in thickness, and two *kin* in weight, held by the smaller end; and in the no less ingenious and anxious enactment of the Welch legislator, who provides, that for certain delinquencies the culprit shall pay as much grain as, being poured out on the floor, shall stand in a heap sufficiently high in the centre to cover the body of a full grown cat, held by the tip of the tail; with her nose just touching the ground!

Upon the folly of these regulations it is unnecessary to enlarge. They have their origin in that unenlightened presumption, which supposes that it is possible for human ingenuity to anticipate all the shades and variations of which human delinquency is susceptible, and to accommodate punishment in so wise a proportion to offence, in a general and permanent code, as that justice shall always be exactly done by its literal enforcement. This, too, is an error of early legislation; and an error that, in the happier regions of the world, is speedily detected by the light of experience and philosophy; proving both that the object is unattainable, and that it is not worth attaining. In almost all cases of variable delinquency, the law need fix only the *maximum* of punishment, leaving it to the

judge to give effect to such circumstances of mitigation as may arise. To think of enumerating all those circumstances by anticipation in the law itself, and settling inflexibly the effect they shall have on the sentence, has always appeared to us to be mere foppery and childishness. In an arbitrary government, the judge is likely to be more merciful, as well as more just, than the legislator: and in a free state, the control of public opinion has always been found sufficient to ensure his impartiality. It is not a little remarkable, however, that this exact adaptation of pains to offences, which, we have seen, is always attempted in ignorant, and abandoned in enlightened times, is very zealously recommended by no less a person than Mr. Bentham, in his *Principes de Legislation*, edited by M. Dumont; and that he even makes the want of it one of the most serious charges against the present system of jurisprudence in most of the European nations. We have formerly said a good deal upon this subject, in our review of that most ingenious publication; and shall only remark at present, that to determine exactly the point at which the danger of committing something to the discretion of the judge becomes less than that of tying him down by directions altogether inflexible, is one of the most difficult problems in the whole science of legislation, and which can only be resolved, in every particular country, by a thorough consideration of the character of the people, and the habits of their law officers.

The third peculiarity which must strike a European, or at least the native of a free country, in perusing this Asiatick code, is the excessive and atrocious severity with which all offences against the government are avenged; and the keen and vindictive jealousy with which the most remote attack on the person or dignity of the emperour is repressed. Persons convicted of treasonable prac-

tices, are to be put to death by slow and protracted torture, and all their male relations in the first degree indiscriminately beheaded; their female relations sold into slavery; and all their connexions residing in their family relentlessly put to death. All persons who at any time presume to walk upon the roads set apart for the imperial journies, shall be severely punished. If they intrude into the line of the imperial retinue, they shall suffer death; and the same if they enter any apartment of the palace set apart for the use of his majesty, or any of his near relations. Workmen employed in the palace shall receive a passport at entering, and deliver it back on their return. They shall be regularly counted as they pass out before sunset; and if any one remains behind, he shall be invariably put to death. Our attainder of blood is merciful and just, compared with these regulations. But the subjects of such a sovereign are amply revenged by the fears in which such laws must originate.

Another very remarkable feature in this code is the indiscriminate frequency of corporeal punishments. The bamboo is the great moral *panacea* of China: and offences of all descriptions are punished, in every rank of society, by a certain quantity of flagellation. The highest officer in the state is whipped like a common pickpocket; and there are at least fifty clauses in this code, by which, for particular offences, a general officer is ordered to receive fifty lashes on his posteriors, and to continue in the command of the army. Those things sound strangely in our ears; and are, no doubt, accompanied, in a certain degree, with that general debasement of character, which, according to our notions, must have existed to an enormous degree before they could be endured. The fact, however, probably is, that the degradation which attaches to a blow in modern Europe, is some-

thing greater than its natural share of degradation; and that we are indebted to the peculiar institution of chivalry, for that generous and refined system of manners, which makes it worse than death for a gentleman either to receive a blow, or to be convicted of a falsehood. In China, they have no such delicacy. A blow is a bad thing in so far as it is painful, and no further; and, in a country where there seems to be absolutely no sense of honour, there is, perhaps, no punishment so equal and manageable. The truth is, that where the government is strong, and the police active and vigilant, it is a matter of no great consequence what be the character of punishment inflicted on individuals, so it be uniform and unvarying. Before we utterly despise the Chinese, however, for flogging their generals, it would be as well that we should cease to flog the brave men, who should share in the honour, as they do in the perils of our generals; and not aggravate the baseness of such a punishment by the inconsistency of confining it to that order of men, to whom it must be most intolerable. In some particular cases, the law of China allows the corporal punishment to be redeemed by a fine, at the rate of about 30s. for each blow.

Such are the chief peculiarities that strike us on a general view of this code. We shall now proceed to make a brief and hasty abstract of such of its particular regulations as appear to us to be curious and important, either as affecting the general system of law, or as illustrating the character and condition of the people.

There is no explanation given of the mode of originating prosecutions. All persons who come to the knowledge of a crime, are liable to severe punishment if they do not inform; and in all cases of theft and robbery, the soldiery and magistrates of the district are exposed to re-

peated floggings, if they do not discover and convict the offenders. The accused person is committed to prison, apparently without any relief analagous to our bail; and is directed to be *tortured* to extort a confession, if the case appear suspicious; the torture, however, is not to be used to persons privileged from their rank; nor to persons under 15, or above 70 years of age. It does not appear, whether the accused is allowed to be present at the examination of witnesses; but, after sentence is pronounced, he and his family are regularly brought into court to hear it; and may, if they please, appeal against it; in which case, the matter shall, in all cases, undergo a fresh examination by a higher tribunal. The merit of voluntary confession seems prodigiously overrated; for any one who comes to a magistrate, and freely confesses a crime before he has been charged with it, is entitled to a free pardon, provided it be a first offence.

Persons under fifteen, or above seventy, or maimed, are allowed to redeem themselves from all but capital punishments, by a small fine. Under ten, and above eighty, even when capitally convicted, to be recommended to the clemency of the emperor. Under seven, and above ninety, to be punished for nothing but treason. By a merciful, but somewhat fantastick construction of these laws, it is enacted, that,

“Whoever is ascertained to be aged or infirm at the period of *trial* for any offence, shall be allowed the benefit of such plea, although he may not have attained the full age, or laboured under the alleged infirmity at the time the offence was committed.

“In any case of temporary banishment, the offender, on attaining the age, or becoming infirm as aforesaid, shall, in like manner, become, thereupon, entitled to the privilege of redeeming himself from further punishment. On the other hand, the privilege of youth may be pleaded when the age of the offender, at the time of committing the offence, did not exceed seven, ten, or fifteen years, whatever may be

his age at the subsequent period of trial." p. 25.

All capital convicts to be executed at a particular period in the autumn; and not sooner than three days after the emperor has transmitted his ratification of the sentence. In certain rare cases, a person capitally convicted is allowed to redeem his life by payment of a sum, varying from about 4,000*l.* to 400*l.* according to his rank and ability. Women are allowed to wear two petticoats when bamboosed, unless it be for adultery; and then they are only to have one. The wives of exiles must follow them to their place of banishment.

The following law, which is exemplified many times in the course of the work, seems to fix a very strange scale of ratio for official responsibility:

"In all cases of officers of government associated in one department or tribunal, and committing offences against the laws as a public body, by false or erroneous decisions and investigations, the clerk of the department or tribunal shall be punished as the principal offender; the punishment of the several deputies, or executive officers, shall be *less* by one degree; that of the assessors less by another degree; and that of the presiding magistrate less by a third degree" p. 30.

If the clerk be, as his name seems to imply, a proper ministerial officer, who is bound to obey the orders of his superiors, it is not easy to conceive any thing more unjust than such an enactment.

Accessaries shall suffer one degree less than principals. This is plain and rational: but the refining genius of the Chinese legislator has thought it necessary to guard and perplex it by the following casuistical limitations.

"When the relative situation of the parties engaged in the commission of one offence, creates a difference in their liability to punishment, the principals shall suffer as principals in the offence committed by themselves; but the accessaries shall be punished as accessaries in the offence, of which they would themselves have been guilty, had they been in the place of the principal. As for instance; if a man engages a stranger to strike his elder brother, the younger brother shall be punished with ninety blows, and two years and a half banishment, for the offence of striking his elder; but the stranger shall be only punished with twenty blows, as in common cases of an assault. Also, if a younger relation induces a stranger to steal to the amount of ten *leang* or ounces of silver of the family property, he shall only be punished as wasting, or disposing of, without leave, the family property to that extent; whereas the stranger shall be punished as in common cases of theft." p. 33.

Foreigners guilty of crimes within China, must answer for them according to the common law of the empire. There is no proper, hereditary nobility in China, except the descendants of some great Tartar princes, who still possess lands in Tartary. The emperor, however, can bestow nobility, with a remainder to heirs-male, to be resumed when he pleases: and, by law, those who have been exalted for rendering eminent services to the state, transmit their honours to the first *three* generations of their male descendants. In general, however, there is no nobility but that of office; and every magistrate, high or low, must be appointed by the emperor. Slavery is established by law; but a man, killing his slave intentionally, shall answer for it as for the death of a free man.

There is no proper priesthood in China, except the emperor and the magistrates, who perform all public oblations. The religion of Fo is tolerated; but no new convents can be established without the imperial license; nor can any one become a priest in that faith, without a similar permission. Such priests are debarred from marrying; and are bound to wear a particular habit. It is not quite clear whether the national religion is a species of deism, or whe-

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ther they worship different subordinate divinities under the name of the Spirits of Earth and Heaven, &c. Sir George Staunton is inclined to hold them vulgar polytheists; but admits that the missionaries always represent them as pure deists. The truth seems to be, that they have no religion, but a set of established solemnities.

Degrees in literature are certainly granted to all persons pretending to publick offices, after examination by the magistrate and heads of tribunals; but there does not appear to be any establishment analagous to our universities. Sir George Staunton has printed, in the appendix, a curious edict of the present emperor, in answer to an application from some of his Tartar subjects, praying to have the means of obtaining literary degrees afforded them in Tartary, without putting them to the trouble of coming to Peking for examination. His majesty, after a gracious preamble, is pleased to refuse the petition; and to recommend to the Tartar officers to "instruct and exhort their sons to consider the *art of riding* and the *use of the bow* as the most appropriate objects of their emulation, and which they cannot study and practise with too much assiduity."

In a country so extensive, and so extremely populous as China, it is natural to suppose that the government should be excessively jealous, both of any tumultuary movement among the people, and of any tendency to a usurpation of power on the part of its remote delegates. There is no part of the code, accordingly, more remarkable for severity, than that which treats of offences tending to excite any sort of commotion or assemblage, or of acts which might lead to the aggrandizement of any of its officers. The following affords a good specimen of the rigour which this jealousy has inspired.

"If any officer belonging to any of the

departments of government, or any private individual, should *address the emperor in praise of the virtues, abilities, or successful administration*, of any of his majesty's confidential ministers of state, it is to be considered as an evidence of the existence of a treasonable combination, subversive of government, and shall therefore be investigated with the utmost strictness and accuracy. The cause and origin of these interested praises of persons high in rank and office being traced, *the offending party shall suffer death*, by being beheaded, after remaining in prison the usual period. His wives and children shall become slaves, and his property shall be confiscated." p. 62, 63.

An accurate enrolment must be made of the people, and of the lands, in every district, each male child being registered when four years of age. The magistrates can call for the services of all males from 16 to 60, either for military or civil purposes. The common rate of wages seems to be about 7d. a day. All the land in the kingdom pays a tax; and it is disputed, with regard to this country as well as India, whether the sovereign is considered as the proprietor, and this tax as his rent, or whether it be a tax merely. It seems to favour the former supposition, that the possessor is liable to severe punishment for not cultivating, over and above being obliged to pay the tax. Certain assessors or valuers are chosen for each district, who become responsible for its quota.

The authority of a father in China is at least as great as it was in ancient Rome. Marriage is not only a mere civil contract, but it is a contract which is always concluded between the parents or elder relations of the parties, and totally independent of their consent. This, however, relates only to the first or chief wife: the others whom the man may choose for himself, seem to be merely concubines, though their children have some legal rights of succession. Almost every man is married as soon as he is of age;

though, by some extraordinary omission, the legislator has neglected to order him to be whipped if he remain single. Persons bearing the same *family name*, though no way related, are, by a whimsical law, strictly prohibited from intermarrying; although there are wonderfully few family names in that vast empire, and though relations beyond the fourth degree may marry without any censure. If the wife commit adultery, the man not only may, but must absolutely divorce her. If both parties are desirous of separation, the divorce may proceed; but, if the wife is not willing, the man shall not put her away, unless he can substantiate one of the following justifying causes against her:

"(1) barrenness; (2) lasciviousness; (3) disregard of her husband's parents; (4) talkativeness; (5) thievish propensities; (6) envious and suspicious temper; and, lastly, (7) inveterate infirmity. Yet, if any of the three reasons against a divorce should exist, namely, (1) the wife's having mourned three years for her husband's parents; (2) the family's having become rich after having been poor previous to, and at the time of, marriage; and (3) the wife's having no parents living to receive her back again; in these cases, none of the seven aforementioned causes will justify a divorce; and the husband who puts away his wife upon such grounds, shall suffer punishment two degrees less than that last stated, and be obliged to receive her again." p. 120.

The laws for the accurate keeping and auditing of the publick accounts, are very strict and laudable; as are those for preventing the embezzlement of the publick revenue. The following might be serviceable in countries to the west of China.

"If any seperintending officer of government, having charge of a part of the produce of the revenue whether in grain or the precious metals, borrows for his own use, or lends the same to others, although the acknowledgement and engagement in writing of the borrower should have been duly obtained, such superintendant shall be punished for

every offence in proportion to the amount and value, according to the law concerning the embezzlement of the property of government.

"If any other person borrows for his own use, or lends the produce of the revenues as aforesaid, he shall be punished in proportion to the amount and value, according to the law for punishing *thefts* committed upon the property of the state." p. 132.

There is nothing strikes the reader of this code with more surprise, than the astonishing resemblance which the *revenue laws* it contains bear, in all respects, to the most perfect and recent system which has been established on that subject in Europe. We find not only the old gabelle, or tax and monopoly of salt, but a regular excise upon tea, alum, and almost every sort of merchandise, with a system of *permits*, excise-officers, inspectors, licenses to traders, and penalties upon *smuggling*, almost exactly as we have them at this day among ourselves. The Chinese laws, however, are, upon the whole, considerably more mild than the English. The smuggler forfeits only one half of the unlicensed goods, three tenths going to the informer; and the personal pains are moderate. The carriage and horses, however, or boat in which the goods are transported, are forfeited as with us. There is a duty on the sale of cattle; and no purchase of that kind can be accomplished without a stamped license from government. The coasting trade is also subjected to certain customs; and vessels having false manifests of their cargo are forfeited. Lawful interest is fixed at the enormous rate of 3 per cent. per month, or 36 per cent. per annum. This appears to us altogether unaccountable. In a country so long fully peopled and so industrious as China, the accumulation of capital must be prodigious; and as there is scarcely any foreign commerce, the profits of trade must have been

brought nearly to their lowest rate by the competition of such multitudes in similar situations. One is greatly at a loss, therefore, to conceive what speculations can be entered into in that country, from the profits of which money can be repaid with 36 per cent. of interest. The truth, perhaps, is, that though this be the *maximum* fixed by the old law, the current rate is greatly inferior; or, perhaps, borrowing at interest is practised only by profligates and adventurers, from whom the chance of repayment is but small. At Canton, and in dealings with strangers, where the risk must be regarded as considerable, the actual rate of interest is from 12 to 18 per cent. only. Persons not paying the interest of their debts regularly, shall receive thirty lashes monthly, so long as they continue in arrear. It does not appear that the person of a debtor can be attached by his creditor. Mortgages have been long known in China, and many regulations made with regard to them; the interest in such cases varies from 10 to 15 per cent.

Waived goods must be taken to the magistrate within five days; but, if not claimed within thirty, they are then given to the finder. Combinations to raise the prices of commodities are punished with forty blows; the use of false weights and measures with seventy; all lawful measures to be stamped after comparison with the government standard.

Pretty severe penalties are awarded against magicians, and the irregular worship of sectaries; but the law seems rather to have in view the tumults or conspiracies to which such practices may give encouragement, than the offence to religion. Families burning incense to the North Star *during the night*, are to be punished; and of magicians, it is said, that

"If they, having in their possession concealed images of their worship, burn

incense in honour of them, and they assemble their followers *by night*, in order to instruct them in their doctrines, and, by pretended powers and notices, endeavour to inveigle and mislead the multitude, the principal in the commission of such offences shall be strangled, after remaining in prison the usual period, and the accessories shall severally receive 100 blows, and be perpetually banished to the distance of 3000 *lee*.

"If at any time the people, whether soldiers or citizens, dress and ornament their idols, and after accompanying them tumultuously with drums and gongs, perform oblations and other sacred rites to their honour, the leader or instigator of such meetings shall be punished with 100 blows." p. 175.

Sir George Staunton observes, in a note, that this latter clause must be regarded as obsolete, since the alleged offence is daily committed in open day throughout the whole extent of the empire. There is nothing said, expressly, on the subject of Christianity, in the laws upon sectarian worship, or elsewhere in the code; though sir George has printed, in the appendix, two edicts on the subject, issued in 1805, expressing great disapprobation of their doctrines.

If the emperor's physician compound any medicine in a manner "not sanctioned by established usage," he shall receive 100 blows. If there be any dirt in his imperial majesty's food, the cook shall receive eighty blows; and if any dish be sent up, without being previously *tasted*, he shall receive fifty. Finally, if any *unusual* ingredient be put into the food, the cook shall receive 100 blows, and be compelled to *swallow* the article!

The censors and provincial magistrates shall represent freely to the emperor whatever they think may conduce to the publick advantage. All publick officers of the first rank shall attend the emperor in a certain order. If any person about court impede or prevent their attendance, he shall suffer death. The magistrates of cities shall attend all supe-

riour officers passing through, to their gates; but shall be severely punished if they proceed beyond them. Every individual who does not dismount and make way when he meets an officer of government on the road, shall receive fifty blows. No individual to pass through a barrier, without a license or passport, under pain of eighty blows. If he proceed so far as to have any communication with aliens, he shall suffer death. In Pekin, no person whatever to go abroad after nine o'clock in the evening, or before five in the morning, under pain of fifty blows. The same regulation in all the other cities of the empire, with one degree of less severity.

The establishment of a government post has long been known as one of the ancient institutions of China. There are various minute regulations with regard to it in this volume. The rate of travelling with publick despatches is not much less than a hundred miles per day.

Robbery in the night is punished with death; in the day, with a hundred blows, and perpetual banishment. Any attempt to rescue the offender after he is seized, is capital. The pains of stealing rise in proportion to the value taken—from sixty blows of the bamboo, to death; though sir George Staunton says, that this extreme punishment never is inflicted for this offence. Swindling, or obtaining money on false pretences, punished exactly as theft to the same value; extorting by threats, one degree more severely. Stealing from near relations incurs punishment five degrees less severe than that of common theft. Sir George Staunton attempts to explain this very extraordinary law, by observing, that all the members of a family are considered as having a sort of joint interest in their property; so that the domestick thief takes only what is partly his own. Kidnapping, or stealing human creatures, punished with a hundred

blows and banishment; if the person be wounded or injured, with death. Any person entering a house, either by force or by stealth, in the night, may be lawfully killed. There are very severe and extremely anxious penalties against disturbing graves, or exposing dead bodies to any kind of indecent treatment.

Murder is punished with death. Even an intention to commit parricide has the same pain; and, if the parent be actually killed, torture is added. Administering poison is capital, even though it does not kill. Killing in an affray is also capital; if by accident, and quite without intention, the party may redeem his life by a small fine. Physicians who kill by absurd medicines, if without any malicious purpose, may also redeem themselves, but must for ever quit the profession. Husbands may kill persons caught in adultery.

There is a long gradation of punishments in cases of assault, both the pains and the injury being nicely distinguished. Mitigations are also allowed on account of provocation, as may be seen from the following characteristick enactment.

“ In the case of a combat between two persons; and in the case of several persons engaging in an affray, and promiscuously striking and fighting each other, they shall be punished respectively, according to the blows duly ascertained, and proved, by the examination of the effects, to have been received by their antagonists; except that the punishment of the person or persons who only return the blows received, and have the right and justice of the dispute on his or their side, shall be reduced two degrees in consideration of such favourable circumstances; but this reduction shall not take place in the instance of striking an elder brother or sister, or an uncle; or when inflicting, in any case, a mortal blow.

“ As for instance; let *Kia* and *Yee* be supposed to quarrel and fight, and that *Kia* deprives *Yee* of an eye, and *Yee* deprives *Kia* of a tooth; now the injury sustained by *Yee* is the heaviest, and subjects *Kia* to the punishment of 100 blows and three years banishment, whilst the lesser

injury sustained by Kia subjects Yee to a punishment of 100 blows only: nevertheless, if it appears that Kia only returned the attack, and had the right on his side, his punishment shall be reduced two degrees, and accordingly amount to eighty blows and two years banishment. On the contrary, if Yee only returned the attack, and had the right in the dispute, his punishment shall be reduced two degrees, and amount to 80 blows only; the punishment to which the antagonist is subjected, remaining in either case the same as before." p. 326, 327.

The punishment for striking an individual of the imperial blood is less severe than for striking an officer of the government. Persons inflicting wounds are liable for their consequences, for twenty, thirty, or fifty days, according to the nature of the injury. If the sufferer die after the legal period, the assailant is not responsible. A slave striking a free man, suffers only one degree more severely than for an assault among equals; and *vice versa*; though a master may strike his slave with impunity, if it be done for correction, and do not cut. Striking parents is death in all cases. Wife striking husband is punished three degrees more severely than for a common assault; if she maim him, with death; if he die, with death by torture. If a father kill his child by excessive chastisement, a hundred blows. There is no warrant in the letter of the law for infanticide. If one kill another to revenge the slaughter of a parent, the punishment is only a hundred blows.

The author of all anonymous accusations against others, shall suffer death, although the charge should prove true. False and malicious accusations shall be punished with a pain two degrees more severe than the accused would have undergone, if the charge had been true. This, again, is exemplified by the anxiety of the legislator, through a great variety of imaginary cases. We shall give merely the general rule of equation.

"When any person accuses another of two or more offences, whereof the lesser only proves true; and when, in the case of a single offence having been charged by one person against another, the statement thereof is found to exceed the truth; upon either supposition, if the punishment of the falsely alleged, or falsely aggravated offence, had been actually inflicted in consequence of such false accusation; the difference (estimated according to the established mode of computation hereafter exemplified) between the falsely alleged and the actually committed offence, or between the falsely alleged greater, and the truly alleged lesser offence, shall be inflicted on the false accuser; but if punishment, conformably to the nature of the falsely alleged, or falsely aggravated offence, shall not have actually been inflicted, having been prevented by a timely discovery of the falsehood of the accusation, the false accuser shall be permitted to redeem, according to an established scale, the whole of the punishment which would have been due to him in the former case, provided it does not exceed 100 blows; but if it should exceed 100 blows, the 100 blows shall be inflicted, and he shall be only permitted to redeem the excess. p. 366, 367.

There is a very long section on bribery, with a prodigious scale of punishments, as usual, according as the bribe is large or small, or taken for an innocent or a criminal object. The pains range from 60 blows with the bamboo to death; that extreme punishment being inflicted for taking more than 80 ounces of silver [under 30*l*.] for an unlawful object, and 120 [or 60*l*.] for a lawful one. Agreeing to take a bribe has the same punishment as actually taking it; offering or giving it a much lighter one; and if asked or extorted by an officer of government, no punishment at all.

Forging an imperial edict is death; or counterfeiting the copper coin, the only proper currency of the empire. There does not appear to be any precise regulation about the forgery of private writings.

Rape is punished with death; adultery among private persons, with 100 blows; but much more severely among persons high in office; forni-

cation, with 70 blows; other offences of a more detestable nature only with the same punishment.

A person accidentally setting fire to his house, shall receive 40 blows; and if the fire spread to the gate of an imperial palace, shall be put to death. Wilfully setting fire to one's own house, 100 blows; to any other house, publick or private, death. Very severe penalties for neglecting the reparation of roads, bridges, and canals, and for damaging or encroaching on them.

Such are a few of the leading provisions of this oriental code: and defective as it must no doubt appear, in comparison with our own more liberal and indulgent constitutions, we conceive, that even this hasty sketch of its contents will be thought sufficient to justify all that we have said of its excellence, in relation to other Asiatick systems. How far it is impartially enforced, or conscientiously obeyed, we have not, indeed, the means of knowing; and so slight is the connexion between good laws and national morality, that prohibitions often serve only to indicate the prevalence of crimes, and the denunciation of severe punishments to prove their impunity. Of one crime, indeed, and that the most heavily reprobated, perhaps, of any in this code, we know the Chinese to be almost universally guilty; and that is, the crime of corruption. At Canton, it is believed, our traders have never yet met with any officer of government inaccessible to a bribe; and where this system is universal, it is evident that the very foundations of justice and good government must be destroyed in every department of the state. Of the extent to which falsification may be carried, and of the impunity of which it may be assured by bribery, a notable instance is recorded in the detail published by sir George Staunton, in the appendix, of the circumstances attending the trial and acquittal of an English seaman,

for killing a Chinese in an affray. The native merchant who had become answerable for the good conduct of the crew, finding it impossible to get the officers to deliver up the man, contrived, by bribes, to the amount, as was reported, of no less than 50,000*l.* not only to get a whole host of witnesses to swear to a detailed story directly contrary to the truth, but to prevail on the tribunals and chief magistrates, among whom the real state of the fact was notorious, to certify and report it to the supreme government at Peking, and to pronounce a solemn sentence in conformity to that statement.

Such, however, will always be the fate of A NATION WITHOUT HONOUR; and this is the grand and peculiar reproach of the singular people we have been contemplating. That noble and capricious principle, which it is as difficult to define, as to refer in all cases to a sure foundation in reason or in morality, is, after all, the true safeguard of national and individual happiness and integrity, as well as of their dignity and greatness. It is found, too, in almost all conditions of society, and in every stage of its progress; among the savages of America, and the bandits of Arabia, as well as among the gentlemen of London or Paris; among Turks, heathens, and Christians; among merchants and peasants; republicans and courtiers; men and children. It is found every where refining and exalting morality; aiding religion, or supplying its place; inspiring and humanizing bravery; fortifying integrity; overawing or tempering oppression; softening the humiliation of poverty, and taming the arrogance of success. A nation is strong and happy exactly in proportion to the spirit of honour which prevails in it; and no nation, ancient or modern, savage or civilized, seems to have been altogether destitute of it, but the Chinese. To what they are indebted for this degrading peculiarity, we shall

not pretend to determine. The despotism of the government; the trading habits of the people; the long peace they have enjoyed; and their want of intercourse with other nations, may all have had their share. The fact, however, we take to be undoubted; and it both explains and justifies the chief deformities in the code we have now been considering. If such a code could be imposed by force upon an honourable and generous people, it would be the most base and cruel of all atrocities to impose it. But it is good

enough for a race to whose habits it was originally adapted, and who have quietly submitted to it for two thousand years. When governments begin to think it a duty to exalt and improve the condition of their subjects, the Chinese government will have more to do than any other; but while the object is merely to keep their subjects in order, and to repress private outrages and injuries to individuals, they may boast of having as effectual provisions for that purpose, as any other people.

FROM THE QUARTERLY REVIEW.

Old Ballads, Historical, &c. By Thomas Evans. Revised, &c. by his son, R. H. Evans. 4 vols. cr. 8vo. pp. 1504. London. 1810.

Essays on Song Writing, &c. By John Aikin. A new edition, with Additions and Corrections, and a Supplement By R. H. Evans. cr. 8vo. pp. 380. London. 1810.

Vocal Poetry, or a Select Collection of English Songs. To which is prefixed, an Essay on Song Writing. By John Aikin, M. D. post 8vo. pp. 304 London. 1810.

WE class these publications together, as being a species which characteristick simplicity and the powerful union of musick render generally acceptable, as well to high-born dames in bower and hall, as to "the free maids that weave their thread with bones."

The reviver of minstrel poetry in Scotland, was the venerable bishop of Dromore, who, in 1765, published his elegant collection of heroick ballads, songs, and pieces of early poets, under the title of *Reliques of Ancient English Poetry*. The plan of the work was adjusted in concert with Mr. Shenstone, but we own we cannot regret that the execution of it devolved upon Dr. Percy alone. It was divided into three volumes, each forming a distinct series of ancient poetry, selected with classical elegance, and interspersed with modern imitations and specimens of lyric composition. The various subdivisions of the work were prefaced by critical and cu-

rious dissertations upon subjects connected with or tending to elucidate the ancient ballads which they preceded. The arrangement of the specimens was so managed as to exhibit the gradation of language, the progress of popular opinions, the manners and customs of former ages, and the obscure passages of our earlier classical poets. The plan of this publication was eminently calculated to remove the principal obstacle which the taste of the period offered to its success. To bring Philosophy from heaven to dwell among men, it was necessary to divest her of some of her more awful attributes, to array her doctrines in familiar language, and render them evident by popular illustration. But Dr. Percy had a different course to pursue when conducting *Legendary Lore* from stalls, and kitchens, and cottage chimneys, or at best, from the dust, moths, and mould of the Pepysian or Pearsonian collections, to be an inmate of the drawing

room and the study. The attempt was entirely new, and the difficulties attending it arose from the fastidious taste of an age which was accustomed to receive nothing under the denomination of poetry, unrecommended by flowing numbers and elaborate expression. To soften these difficulties Dr. Percy availed himself, to a considerable extent, of his own poetical talent, to alter, amend, and decorate the rude, popular rhymes which, if given to the publick with scrupulous fidelity, would probably have been rejected with contempt and disgust. It was not then so much the question whether an ancient poem was authentick, according to the letter, as whether it was, or could be rendered, worth reading; and it might be said of Dr. Percy's labours as an editor, *nihil quod tetigit non ornavit*. It may be asked by the severer antiquary of the present day, why an editor, thinking it necessary to introduce such alterations, in order to bring forth a new, beautiful, and interesting sense from a meagre or corrupted original, did not, in good faith to his readers, acquaint them with the liberties he had taken, and make them judges whether, in so doing, he transgressed his limits. We answer, that unquestionably such would be the express duty of a modern editor; but such were not the rules of the service when Dr. Percy first opened the campaign. His avowal of alterations, additions, and conjectural emendations, at the bottom of each page, would have only led his readers to infer that his originals were good for nothing; not to mention that a great many of those additions derived their principal merit from being supposed ancient. In short, a certain conformity with the general taste was necessary to introduce a relish for the subject; accuracy, and minute investigation of the original state of the ballads, was likely to follow, and did follow

so soon as the publick ear had been won by the more elegant and polished edition of Dr. Percy. It had been well if the industrious Ritson, and other minute and accurate labourers in the mine of antiquity, had contented themselves with exhibiting specimens of the ore in its original state, without abusing the artist who had made the vein worth digging, by showing to what its produce might be refined.

The Reliques of Ancient English Poetry seem, shortly after their publication, to have exceeded even the expectation of the editor in giving a strong and determined impulse to publick taste and curiosity, the effects of which have only abated within these very few years. Mr. Thomas Evans, bookseller, was the first who endeavoured to avail himself of the taste which they had excited, by publishing the collection of which his son has now given us a second edition.

This publication, although intended as a supplement to the Reliques of Ancient Poetry, cannot be considered as continued upon the same plan. There are no dissertations prefixed, and the preliminary matter which prefaces the ballads, is but meagre. The ballads themselves are chiefly such as the more cautious taste of Dr. Percy had left unpublished, either because their rude structure was incapable of decoration, or because they were so well known as to render decoration unadvisable. The principal source from which they were taken, is a small publication in three vols. 12mo. entitled: "A Collection of old Ballads, corrected from the best and most ancient Copies extant, with Introductions, historical, critical, or humorous: illustrated with copper-plates." It is now, we believe, extremely rare, and sells at a price very disproportionate to its size. The volumes appeared separately, and from the edition now before us,

the first seems to have been reprinted in 1723, the second in the same year, the third in 1725. The editor was an enthusiast in the cause of old poetry, and selected his matter without much regard to decency, as will appear from the following singular preface to one or two indelicate pieces of humour. "One of the greatest complaints made by the ladies against the first volume of our collection, and, indeed, the only one which has reached my ears, is the want of merry songs. I believe I may give a pretty good guess at what they call mirth in such pieces as these, and shall endeavour to satisfy them, though I have very little room to spare." From this fountain, the late Mr. Evans, seems to have drawn such supplies as it afforded. Most of his historical ballads are taken from it, and many of the Tales of Robin Hood, although he probably used some of the Garlands respecting the hero of Sherwood, in correcting and completing that series. In the present edition these are materially improved by comparison with, and reference to, the black-letter copies.

But, although Mr. Evans did not imitate Dr. Percy in the more learned and critical department of his labour, and although he stands acquitted of having taken the same license with originals of acknowledged antiquity; yet he not only followed his plan in admitting the compositions of modern authors in imitation of the ancient ballad, but the third and fourth volumes of his works contain also some pieces presented as ancient, which, from the orthography, language, sentiments, and numbers, are evidently spurious. These ballads, which we have always considered as the most valuable part of Mr. Evans's collection, as far as poetry is concerned, are Bishop Thurston and the King of Scots, Battle of Cuton Moor, Murder of Prince Arthur, Prince Edward and Adam Gordon, Cumnor Hall, Ara-

bella Stuart, Anna Bullen, The Lady and the Palmer, The Fair Maniack, The Bridal Bed, The Lordling Peasant, the Red-Cross Knight, The Wandering Maid, The Triumph of Death, Julia, The Fruits of Jealousy, The Death of Allen. These seventeen ballads, which we believe have never been published except in this work, have a sort of family resemblance which indicates a common parent. The antique colouring in all of them originally consisted in the adoption of a species of orthography embarrassed with an unusual number of letters, and regular *exchaungynge* the *i* for the *y* in the participle, which is, for farther dignity, graced, uniformly, with a final *e*. These injudicious marks of imitation, which can no more render a modern ballad like an ancient, than a decoction of walnuts can convert the features of a European into those of an Asiatick, are rejected by the present editor, Mr. R. H. Evans, who thus leads us to infer that he does not consider the poems we have enumerated, as authentick remnants of antiquity. We wish he had favoured us with some light upon their history. They appear to us to be the work of an author endowed with no small portion of poetical genius. Many marks of haste appear in the composition, which the writer probably considered as of little importance, since he never intended to be responsible for his offspring. But there are touches of great beauty of description, and an expression of sentiment peculiarly soft, simple, and affecting, in almost every one of these neglected legends. The knowledge of history, too, which they display, argues that the author mingled the pursuits of the antiquary with those of the poet, and was enabled, by the information so collected, to realize and verify the conceptions of his imagination when employed upon the actual manners and customs of the feudal

ages. To vindicate our eulogium we beg leave to quote a few stanzas from the tale entitled the Bridal Bed.

"It was a maid of low degree
Sat on her true-love's grave,
And with her tears most piteously
The green turf she did lave;
She strew'd the flow'rs, she pluck'd the
weed,
And show'rs of tears she shed:
'Sweet turf,' she cried, 'by fate decreed
To be my bridal bed!

'I've set thee, flow'r, for that the flow'r
Of manhood lieth there;
And water'd thee with plenteous show'r
Of many a briny tear.'
And still she cried, 'Oh stay, my love,
My true-love stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.

'Sweet turf, thy green more green ap-
pears,
Tears make thy verdure grow,
Then still I'll water thee with tears,
That thus profusely flow.
Oh stay for me, departed youth,
My true-love, stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.

'This is the flow'ry wreath he wove,
To deck his bride, dear youth!
And this, the ring with which my love
To me did plight his troth;
And this dear ring I was to keep,
And with it to be wed;
But here, alas! I sigh and weep
To deck my bridal bed.'

A blithsome knight came riding by,
And, as the bright moon shone,
He saw her on the green turf lie,
And heard her piteous moan;
For loud she cried, 'O stay, my love,
My true-love, stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.'

'Be calm, fair maid,' the knight replied,
'Thou art too young to die;
But go with me, and be my bride,
And leave the old to sigh.'
But still she cried, 'Oh stay, my love,
My true-love, stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.'

'Oh leave,' he cried, 'this grief so cold,
And leave this dread despair,

And thou shalt flaunt in robes of gold,
A lady rich and fair:
Thou shalt have halls and castles fair,
And when, sweet maid, we wed,
O thou shalt have much costly gear,
To deck thy bridal bed.'

'Oh hold thy peace, thou cruel knight,
Nor urge me to despair;
With thee my troth I will not plight,
For all thy proffers fair:
But I will die with my own true-love;
My true-love stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.

'Thy halls and castles I despise;
This turf is all I crave;
For all my hopes, and all my joys,
Lie buried in this grave:
I want not gold, nor costly gear,
Now my true-love is dead;
But with fading flow'r and scalding tear
I deck my bridal bed.'

'Oh! be my bride, thou weeping fair,
O! be my bride, I pray;
And I will build a tomb most rare,
Where thy true love shall lay;
But still with tears she cried, 'My love,
My true-love, stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.

'My love needs not a tomb so rare,
In a green grave we'll lie;
Our carved works, these flow'rets fair;
Our canopy, the sky.
Now go, sir knight, now go thy ways;
Full soon I shall be dead;
And then return, in some few days,
And deck my bridal bed.

'And strew the flow'r, and pluck the
thorn,
And cleanse the turf, I pray;
So may some hand thy turf adorn,
When thou in grave shalt lay.
But stay, oh thou whom dear I love,
My true-love, stay for me;
Stay till I've deck'd my bridal bed,
And I will follow thee.'

This dirge is certainly not ancient; but it is no treason to say it is better than if it were. We cannot suppress a suspicion that these legendary pieces flowed from the pen of a poet to whom neither his own nor this generation has been altogether just. We mean William Julius Mickle,

the translator of the *Lusiad*. His *Sir Martyn*, written in imitation of Spenser's manner, with much of the copious and luxuriant description of his original, shows his attachment to the study of the ancient poetry of Britain; and his two beautiful ballads, entitled *Hengist and Mey*, and the *Sorceress*, have the same harmony of versification, the same simple and affecting turn of expression, with the imitations of the heroick legend which we are now considering. If Mr. Mickle should have been a friend of the elder Mr. Evans, as we believe, we consider that circumstance, joined to internal evidence, as sufficient to ascertain his property in the ballads in question.

We have also to complain, that in publishing some other imitations of the ancient ballads, the authors' names have been withheld, where, perhaps, they were more easily attainable than in the case just stated. Thus the ingenious Mr. Henry Mackenzie (author of the *Man of Feeling*) is well known to have written the beautiful Scottish ballad entitled *Kenneth*; and Michael Bruce that of *Sir John the Ross*. The ballad of the *Laidley Worm of Spindleston Heughs*, is also known to have been, in a very great measure, the production of the rev. Mr. Lambe, late vicar of Norham, and editor of the *Battle of Flodden-field*. It is founded upon a prevailing tradition in *Bamboroughshire*, and the author has interwoven a few stanzas of the original song concerning it, which begins,

"Bambro' castle's built full high,
It's built of marble stone,
And lang lang may the lady wait
For her father's coming home," &c.

In revising his father's publications, Mr. R. Evans has, with great judgment, discarded a number of sing-song imitations of the ancient ballad by Jerningham, Robinson, and other flimsy pretenders, who,

seduced by the apparent ease of the task, ventured to lay their hand upon the minstrel lyre. For a different reason, he has omitted the contributions which his father levied upon Goldsmith, Gray, and other eminent moderns, whose works are in every one's hand. By this exclusion he has made room for a selection of genuine ancient poetry, compiled, by his own industry, from the hoarded treasures of black-letter ballads.

It is no disgrace to Mr. Evans, that these veterans, whom he has introduced to recruit his diminished ranks, are, generally speaking, more respectable for their antiquity, than for any thing else. Percy, Ellis, and other editors of taste and genius, had long ago anticipated Mr. Evans's labours, and left him but the refuse of the market. Some of the ballads, indeed, exhibit such wretched doggrel, as serves, more than the dissertations of ten thousand Ritzons, to degrade the character of our ancient song-inditers.

The "*Warning to Youth*," for example, "showing the lewd life of a merchant's sonne of London, and the misery that at the last he sustained by his notoriousnesse," might, notwithstanding the valuable moral attached to it, have been left, without injury to the publick, to "dust and mere oblivion." Had we known Mr. Evans's curiosity in such matters, we could have supplied him with as much stale poetry of a similar description as would have made his four volumes twenty.

But although Mr. Evans's love of antiquity has occasionally seduced him into publishing what is no otherwise valuable than as it is old, a prejudice by which all antiquarian editors are influenced in a greater or lesser degree, we have to applaud the diligence with which he has traced and recovered some beautiful, and some curious pieces of poetry which possess intrinsick merit and interest. Among the former we dis-

tinguish the address to a disappointed, or rather a forsaken lover, which has, we think, a turn of passion that is new, upon a very threadbare subject.

"I'm so farre from pittying thee,
That wear'st a branch of willow tree,
That I do envie thee and all
That once were high and got a fall:
O willow, willow, willow tree,
I would thou didst belong to mee.

"Thy wearing willow doth imply;
That thou art happier farre than I,
For once thou wert where thou wouldst be,
Though now thou wear'st the willow tree;
O willow, willow, sweete willow,
Let me once lie upon her pillow.

"I doe defie both boughe and roote,
And all the fiends of hell to boote
One houre of paradised joye,
Makes purgatorie seeme a toye:
O willow, willow, doe thy worst,
Thou canst not make me more accurst.

"I have spent all my golden time,
In writing many a loving rime,
I have consumed all my youth
In vowing of my faith and trueth:
O willow, willow, willow tree,
Yet can I not beleev'd bee.

"And now alas it is too late,
Gray hayres, the messenger of fate,
Bid me to set my heart at rest,
For beautie loveth young men best:
O willow, willow, I must die,
Thy servant's happier farre than I."

The "Symptoms of Love," p. 246, is another very pretty song, and there are many scattered through the volume which have considerable elegance of expression, or a quaintness rendered venerable by antiquity, and which, like the grotesque carving on a gothick nich, has a pleasing effect, though irreconcilable with the strict rules of taste.

These praises apply chiefly to the songs and minor pieces of lyrical poetry. The only ancient ballad, actually connected with history and manners, which Mr. Evans's labours have presented to us for the first time, is the *Murder of the Wests*,

by the sons of the lord Darsy: its chief merit is its curiosity.

Among the poems which are deservedly inserted, we cannot help remarking that entitled "*The Felon Sow and the Freeres of Richmond*," as belonging to a class of compositions which has been but slightly discussed by our antiquaries; we mean the burlesque romance of the middle ages with which, doubtless, the minstrel and tale-teller relieved the uniformity of their heroick ditties. In these ludicrous poems, which are a kind of parody upon the metrical romances, churchmen and peasants are introduced imitating the knightly pastimes of chivalry; and their awkward mishaps and absurd blunders, must have been matter of excellent mirth to the doughty knights and gallant barons who listened to the tale. Thus, in the case before us, the felon sow was the undisturbed tenant of the woods of Rookby, and the romantick banks of the Greta. Her size and ferocity are described with great emphasis. The lord of Rookby, a man of humour, gave her to the friars of Richmond, provided they could catch her. Friar Middleton sets off with two wight men at musters, to possess himself of the prize. They compel the sow to take refuge in a lime-kiln, where they hamper her with cords from above. But the felon sow breaks forth upon them, routs the escort, reduces the friar to conjuration out of his breviary, and at length to betake himself to a tree. Friar Middleton and his companions return in evil plight to the convent; and the warden, to redeem the disgrace, hires two bold men at arms to follow forth the adventure of the sow: they enter into solemn indentures to "bide and fight" to the death, and the warden on his part becomes bound to say masses for their souls if they miscarry. The men at arms, more successful than friar Middleton, vanquish and kill the felon sow; and the convent sing

"Te Deum" merrily, "that they had won the beast of price."

"If you will any more of this,
In the Friery at Richmond written it is,
In parchment good and fine,
How Freer Middleton so hende,
At Greta Bridge conjured a fiend,
In likenesse of a swine."

This tale, which possesses some portion of Cervantick humour, resembles the tournament of Tottenham [See Percy's Reliques, vol. ii.] in which the peasants of a village are introduced imitating all the solemnities of a tournament, and battering each other's heads with flails, as knights did with long swords and maces. Another remarkable example of this class of comick romances, is entitled the "Hunting of the Hare." A yeoman having found a hare sitting in the common field of a village, announces his discovery to the inhabitants. The peasants, resolving to course her, bring to the spot their great yard dogs and mastiffs, "with short shanks and never a tail." The confusion and disarray which follow the congregating of this ill-assorted pack is described with great humour: the ban-dogs, more addicted to war than sport, fall foul of each other; their masters are gradually involved in the quarrel, and poor puss steals away, leaving her enemies engaged in a grand scene of worrying and wrangling. This poem, has never, we believe, been printed. We could add largely to these examples, and show that low romance formed a distinct style of composition during the middle ages: but we have already exceeded our bounds, and must dismiss Mr. Evans's publication, which, always curious, has been greatly improved by his personal taste and labour.

The next articles in our title, which are allied in subject to the Collection of Ballads, are two editions of the same work; Dr. Aikin's well known collection of songs, with the preliminary essay. Mr.

Evans, it seems, from his preface, considered Dr. Aikin to have given up any intention of reprinting his collection.

"The many years which have elapsed since the publication of the last edition, seemed to leave no hope that Dr. Aikin could be prevailed on to gratify the publick by a revision and enlargement of his work. He had declined the task in the prime and vigour of life, and he might now think it unbecoming his years, to engage in a republication of these *nugæ canore*. *Turpe senilis amor*, the doctor might exclaim, and though he might be pleased to see his volume ranged by the side of those of Percy, Ellis, and some other similar publications, yet he has abandoned the friendly office of revision to other hands."

Mr. Evans has, however, reckoned without his host in this matter, and we are sorry that he did not take some more certain means of ascertaining the doctor's intentions, considering his own labours; for we are not to suppose, that one who is an editor, as well as a bookseller, would have so far neglected the *comitas* due to a brother author, as to publish against him a rival edition of his own work. Dr. Aikin prefaces his edition with the following account of his motives:

"As inquiries were still from time to time made after it among the booksellers, the editor was asked the question, whether he had any intention of reprinting it; accompanied with the intimation, that, as the copy-right was expired, should he decline the business, others would be ready to undertake it. Conscious that the Essays were the juvenile attempts of one whose taste was by no means matured, and whose critical knowledge was circumscribed within narrow limits, the editor was unwilling that his book should again be given to the publick with all its imperfections on its head. He was obliged, therefore, to declare, that if it were reprinted at all, it should be with many material alterations, corresponding to his own change of taste and opinion in various points during so long an interval.

"Under these almost compulsory circumstances, although he perhaps should not now

have chosen for the first time to appear as the collector of productions, the general strain of which is more suitable to an earlier period of life, yet he thought he might, without impropriety, avail himself of the opportunity of making a new and much more extensive selection of compositions which will not cease to be favourites with the lovers of elegant poetry, whatever be the vicissitudes of general taste."

In the singular predicament of reviewing two rival editions of the same work, and without pretending to give a decision against Mr. Evans, although we think he has treated Dr. Aikin with somewhat less attention than his age, situation, and talents perhaps demanded, we cannot regret that we are possessed of both editions of the book, and trust that (as the old song runs) "the world's wide and there's room for us all." We are particularly glad to have an opportunity of comparing Dr. Aikin's original ideas upon the subject of song writing, with those which he has since adopted. His four essays upon songs in general, upon ballads and pastoral songs, upon passionate and descriptive songs, upon ingenious and witty songs, are now blended into one general essay; but we love the classical turn of these little discourses so well, that we are glad they are preserved in their original state. Such directions and rules of composition, whether in their separate and detailed, or in their new moulded shape, were never more necessary than at the present day. The marriage between Harmony and "Immortal Verse," has, like fashionable wedlock, frequently made some very ill-matched pairs; and we suspect that Poetry must soon sue for a separate maintenance. The ladies, who ought, in common charity, to feel for her situation, are those who aggravate her hardships; for it is rare to hear a fair songstress utter the words of the song which she

quavers forth. But where taste and feeling for poetry happen to be united with a sweet and flexible voice, it is scarcely possible to mention a higher power of imparting and heightening social pleasure. We have heard Dr. Aikin's simple ballad: "It was a winter's evening, and fast came down the snow," set by Dr. Clarke, sung with such beautiful simplicity as to draw tears even from the eyes of reviewers. But the consideration of modern song opens to the critick a stronger ground of complaint, from the degeneracy of the compositions which have been popular under that name. Surely it is time to make some stand against the deluge of nonsense and indecency which has of late supplanted, in the higher circles, the songs of our best poets. We say nothing of the "Nancies of the hills and vales." Peace to all such! let the milliner and apprentice have their ballad, and have it such as they can understand. Let the seaman have his "tight main-decker," and the countess her tinsel'd canzonet. But when we hear words which convey to every man, and we fear to most of the women in society, a sense beyond what effrontery itself would venture to avow; when we hear such flowing from the lips, or addressed to the ears, of unsuspecting innocence, we can barely suppress our execration. This elegant collection presents, to those who admire musick, a means of escaping from the too general pollution, and of indulging a pleasure which we are taught to regard as equally advantageous to the heart, taste, and understanding. Both editions are considerably enlarged by various songs extracted from the best modern poets, and in either shape the work maintains its right to rank as one of the most classical collections of songs in any language.

SPIRIT OF THE MAGAZINES.

MEMOIRS OF THE LIFE OF PRINCE EUGENE, OF SAVOY, WRITTEN
BY HIMSELF.

[Continued from vol. 4. p. 336.]

1708—AS I was sure that Marlborough could make no arrangements but what were excellent, I went the day after the battle of Oudenarde to see my mother, at Brussels. What tears of affection did she shed on beholding me again with some addition of glory! I told her, however, that Marlborough's portion seemed greater than mine, as at Hochstett. The joy of revenge had some share in that, occasioned by our victory. She was glad to see the king humbled, who had left her, for another woman, in his youth, and exiled her in his old age. It is remarkable that in hers, she married the duke d'Ursel, without assuming his name. Nobody knew this; it could not have been a match of conscience or convenience, but probably of *ennui* and idleness.

The fifteen days which I thus passed with her, were the most agreeable of my life. I parted from her with the more pain, as it was probable that we should not see each other again. On the last day of my visit the troops from the Moselle arrived. We were then as strong as the French. I sent eight battalions to reinforce Marlborough's corps, which covered Flanders. I left the rest to cover Brussels, and rejoined him at the camp of Elchin. He, Ouverkirke, and myself, agreed upon sending a strong detachment to lay waste Artois and Picardy, and

thus compel Vendome to leave his camp. Vendome, who guessed our intention, remained immovable. I proposed the siege of Lisle; the deputies of the states-general thought fit to be of a different opinion. Marlborough was with me, and they were obliged to hold their tongues. The siege was committed to me, while Marlborough was to cover it against the army of the duke of Burgundy. The latter with 60,000 men, encamped near Pont des Pierres; and I with 40,000, after investing the city, took up my head quarters at the abbey of Loos, on the 13th of August. The brave and skilful Boufflers, with a garrison of sixteen battalions, and four regiments of dragoons, cut out plenty of work for me. The job, so far from being easy, was a dangerous one; for Mons was not in our possession. My first attack on fort Cateleau was repulsed; the works undertaken the same day to drain a large pond which was in my way, also failed. I ordered expedients to be made, for the fire of the place annoyed us to such a degree, that a cannon-ball carried off the head of the valet of the prince of Orange, at the moment when he was putting on his master's shirt. It may easily be supposed that he was obliged to take another, and to remove his quarters. I opened the trenches and on the 23d the besieged made

a sortie, when lieutenant-general Betendorff, who commanded there, was taken prisoner. Boufflers treated him exceedingly well. The festival of St. Louis, which he celebrated with three general discharges of all his artillery, cost us some men. In the night between the 26th and 27th, the besieged made a terrible sortie; I gained the post of the mill of St. Andrew; Boufflers retook it; and I there lost 600 men.

Marlborough sent me word that Berwick having reenforced the duke of Burgundy, the army, now 120,000 strong, was marching to the relief of Lisle. The deputies of the states-general, always interfering in every thing, and always dying of fear, asked me for a reenforcement for him. I went to his camp to offer him one. He said: "Let us go together, and reconnoitre the ground between the Deule and the Marck." After we had examined it, he said: "I have no occasion for one, I shall only move my camp nearer to your's." Vendome proposed not to lose a day, but instantly attack the army of observation, and the besieging force. "I cannot," said the duke of Burgundy; "I have sent a courier to my grandfather to inquire his pleasure." Conferences were held at Versailles, and the king sent his booby Chabillard to his grandson's camp. He went up with him into the steeple of the village of Sedin, to view our two armies, and he decided against giving us battle.

I cannot conceive how Vendome could forbear running mad; another, with less zeal, would have sent every thing to the devil; and he, a better grandson of a king of France than the other, took the trouble, the day before, to go so close to Marlborough's position to reconnoitre, that he was grazed by a cannon-ball. I had returned to Marlborough's camp to be his volunteer, if he had been attacked.

But (while I think of it) a Chamillard, that is, in one word, a

young prince of no character, and an old king who had lost his, were quite sufficient to fill Vendome's heart with rage. He was obliged by them to retreat, as if he had been beaten. I continued the siege, sure of not being interrupted, and took the redoubt of the gate of Flanders, and some others; but after three hours fighting for one of the most essential, I was driven back, and pursued to my trenches. I scarcely stirred from them, having the king of Poland and all my young princes at my side; for it was necessary to set an example, and to give orders. I ordered two assaults to facilitate the taking of the covered way; always repulsed, but a horrible carnage. Five thousand English, sent me by Marlborough to repair my losses, performed wonders, but were thrown into disorder. We heard the cry of *Vive le Roi et Boufflers!* I said a few words in English to those brave fellows who rallied round me; I led them back into the fire; but a ball below the left eye knocked me down senseless. Every body thought me dead, and so did I too. They found a dung-cart, in which I was conveyed to my quarters. First my life, and then my sight, was despaired of. I recovered both. The ball had struck me obliquely. Here was another unsuccessful attack; out of 5,000 men, not 1,500 returned, and 1,200 workmen were there killed.

Being prevented for some time, by my wound from interfering in any thing, I left the command of the siege to Marlborough, who delivered his to Ouverkerke. He effected a lodgment in a *tenaillon* on the left; but a mine baffled the assault and the assailants. Marlborough countermined some of them, and took all possible pains to spare me trouble on my return. He was obliged to eat in publick, in order to cheer my army, and returned to his own.

The chevalier de Luxembourg deceived me by introducing ammu-

nition, of which the besieged were in great want; and a captain, named Dubois, deceived me by swimming with a note from Boufflers to the duke of Burgundy, informing him, that though the trenches had been opened forty days, I was not yet completely master of any of the works. "Nevertheless, Monseigneur," added he, "I cannot hold out beyond the 15th or 20th of October."

I was in want of powder. A single letter from Marlborough to his friend, queen Anne, occasioned a quantity to be sent me, with fourteen battalions, by the fleet of vice-admiral Byng, who landed them at Ostend. Every body is acquainted with the stupidity of Lamotte, who not only suffered this convoy to reach me, but got a sound drubbing for his whole corps that was intended to prevent it. Being completely recovered from my wound, I was night and day at the works, which Boufflers, also present every where, was incessantly interrupting or annoying.

I bethought me of a stratagem to give frequent alarms for several nights, at a half moon, with a view to attack it afterwards in open day, being persuaded that the wearied soldiers would take that time for repose. This scheme succeeded. I ordered an assault upon a salient angle; and that succeeded. I directed the covered way to be attacked, and again succeeded. I thence made a breach in the curtain, and enlarged another in a bastion; and when I was at length working at the descent of the ditch, the marshal, who had every day invented some new artifice, sometimes tin boxes, at others earthen pots filled with grenades, and done all that valour and science could suggest, offered to capitulate on the 22d of September. Without mentioning any conditions, I promised to sign such as he should propose to me. "This, M. le Marechal," so I wrote to him, "is to show you my perfect regard for

your person, and I am sure that a brave man like you will not abuse it. I congratulate you on your excellent defence."

My council of war, which I summoned out of politeness, objected to the article that the citadel should not be attacked on the side next the town. I yielded, having my plan in my head, and wrote to Boufflers: "Certain reasons, M. le Marechal, prevent me from signing this article, but I give you my word of honour to observe it. I hope in six weeks to give you fresh proofs of my admiration." Boufflers retired into the citadel, and I entered the city with Marlborough, the king of Poland, the landgrave of Hesse, &c. In the morning we went to church, and at night to the play, and all the business of the capitulation being finished on the 29th of October, I the same day ordered the trenches to be opened before the citadel.

Before I proceed to this siege, I ought to relate a circumstance that happened to me during that of the city. A clerk of the post-office wrote to the secretary of general Dopf, desiring him to deliver to me two letters, one from the Hague, and the other I know not whence. I opened the letter, and found nothing but a greasy paper. Persuaded, as I still am, that it was a mistake, or something of no consequence, which I might, perhaps, have been able to read had I taken the trouble to hold the paper to the fire, I threw it away. Somebody picked it up, and it was said that a dog, about whose neck it was tied, died poisoned in the space of twenty-four hours. What makes me think this untrue, is, that at Versailles they were too generous, and at Vienna too religious, for such a trick.

The ninth day the besieged made a vigorous sortie. The prince of Brunswick, who repulsed it, received a wound from a musket-ball in the head. The eleventh, a still more vigorous sortie of the cheva-

lier de Luxembourg, who drove my troops from the branches of the trenches, and made us fall back to St. Catherine's. An excellent officer of my staff had his head shot off by a cannon-ball by my side. The enemy lost a great number of men before he returned to the citadel. I caused every thing to be repaired.

I was now suddenly obliged to abandon the siege, leaving the direction of it to prince Alexander of Würtemberg. The elector of Bavaria was engaged in that of Brussels. Marlborough and I made him raise it after a pretty battle, and some excellent, well combined manœuvres, of which he had all the honour, for I could not pass the Scheldt where I wanted. The elector of Bavaria was somewhat ashamed. The French princes would have been so too, had not their joy on returning to Versailles prevented them.

I went back to the siege; but what a change! The marshal had taken advantage of my absence to drive the besiegers from the first covered way, of which I had left them in possession. After regaining it, as well as the other posts that had been abandoned, I wrote as follows to the brave Boufflers: "The French army has retired, M. le Marechal, toward Tournay, the elector of Bavaria to Namur, and the princes to their courts. Spare yourself and your brave garrison. I will again sign whatever you please." His answer was: "There is yet no occasion to be in a hurry. Permit me to defend myself as long as I can. I have still enough left to do to render myself more worthy of the esteem of the man whom I respect above all others." I gave orders for the assault of the second covered way. The king of France apparently anticipated this, for he wrote to the marshal to surrender. Notwithstanding his repugnance to such a step, he was on the point of obeying, when, in a note which the duke of Burgundy had subjoined to the

king's letter, he read: "I know from a certain quarter, that they want to make you a prisoner of war." I know not where he picked up this information; but that prince, respectable as he was in peace, could neither say nor do any but foolish things in war. This note, however, produced some impression for a moment. Generals, soldiers, and all, swore rather to perish in the breach. Boufflers wept for joy, as I have been told; and when on the point of embracing this alternative, he recollected my note, which got the better of the duke of Burgundy's; and after the trenches had been opened four months before the city and citadel, he sent me on the 8th of December, all the articles that he wished me to sign, which I did without any restriction. I went very soon with the prince of Orange to pay him a visit, and in truth to do homage to his merit. I cordially embraced him, and accepted an invitation to supper; "on condition," said I, "that it be that of a famished citadel, to see what you may eat without an express order from the king." Roasted horse-flesh was set before us; the epicures in my suite were far from relishing the joke, but were quickly consoled by the arrival of provisions from the city, on which we made an excellent repast.

The following day I gave him as good a dinner as I could, at my abbey, where he paid me a visit. We were very merry and communicative. We talked of war, politicks, and Louis XIV. On the latter subject I was highly amused with the flatteries of the states-general, who thinking themselves very cunning, were in hopes by these means to dispose him to peace, of which they were ardently desirous. I durst not be alone a moment with the marshal, lest idle stories should be circulated respecting us; and one or the other might appear suspicious to our courts, where people are always sure to have good friends, who are

never asleep. After manifesting my consideration for the illustrious vanquished, whenever we were together at the play, and when we went abroad into the streets, where I observed that he was universally adored, I caused him and his brave garrison to be conducted to Douay, with a large escort and all possible honours.

After retaking Ghent and Bruges, Marlborough and I put our troops in winter-quarters, and went for a month to Brussels; but my mother was no longer there.

1709.—January 9th, we set out for the Hague. It was nothing but a series of honours and festivities; presents for Marlborough, and fireworks for me. But I prevented a magnificent exhibition, by requesting the states-general to give the money it was to have cost to their brave soldiers, whom I had caused to be crippled; and the 20th of January I set off for Vienna, to report and ask for further orders.

I was directed to make peace, if the enemy would comply with all my demands. I returned on the 8th of April to the Hague, where I found the plenipotentiaries of the king of France. Famine, a winter more severe than had ever been known, want of men and money, made him wish for peace; but the vanquished forget that they are such, as soon as they enter upon negotiation. They mistake obstinacy for firmness, and at last get more soundly beaten than before.

One hundred thousand men were again under Marlborough's command and mine in the Low Countries; and the same number under that of Villars. "I am going," said he to the king on taking leave, "to drive your enemies so far, that they shall not again see the banks of the Scheldt; and by a battle on my arrival, to regain all that has been taken from your majesty."

Without wishing to avoid one, for he was morally and physically brave, he took an extremely advantageous position. This was one of his great

talents. He wanted very little to be a perfect warrior. With reinforcements, which poured in to us on all sides, we were stronger than he, but there was no possibility of attacking him where he was. To oblige him to quit his position, we resolved to besiege Tournay. The trenches were opened on the 7th of July, the white flag was hoisted on the 28th, and on the 21st of August, after the most terrible subterraneous war that I ever witnessed (for in twenty-six days, the besieged sprung thirty-eight mines) the citadel surrendered. Villars never stirred. "Let us go and take Mons," said I to Marlborough; "perhaps this devil of a fellow will tire of being so prudent." Madame de Maintenon did not give him credit for so much prudence as he possessed, though she was very fond of him: for she permitted Louis XIV. to send marshal Boufflers to assist him. Certain enemies of Villars, at Versailles, hoped to give him disgust; but I have already proved, that brave men agree together, and love and esteem each other. The two marshals would gladly have saved Mons without risking a battle; we stood upon ceremony to know which party should oblige the other to give it. As soon as our troops from Tournay had arrived: "Let us lose no time," said I; "and in spite of 120,000 men, woods, hedges, villages, holes, triple intrenchments, a hundred pieces of cannon and *abattis*, let us put an end to the war in one day."

The deputies of Holland, and some faint-hearted generals, objected, remonstrated, and tired me. It was of no use to tell them that the excellent veteran French soldiers were killed in the six or seven battles which Marlborough and I had gained; and though I well knew that young ones are formed but too expeditiously, an advantage in which they are superiour to all other nations, we determined upon the battle of Malplaquet. The 11th of Sep-

tember a thick fog concealed our dispositions from the marshals; we dispelled it at eight in the morning, by a general discharge of all our artillery. This military musick was succeeded by that of hautboys, drums, fifes, and trumpets, with which I treated both armies. We then saw Villars proceeding through all the ranks. As the French can never hear enough of their king: "My friends," said he to them, as I have been told, "the king commands me to fight: are you not very glad of it?" He was answered with shouts of, *Vive le Roi et M. de Villars!* I attacked the wood of Sars without shouting. I rallied the English guards, who, at the beginning, were scattered; some from too much courage, and others from a contrary reason: my German battalions supported them. We had, nevertheless, been overwhelmed, had not the duke of Argyle, who boldly climbed the parapet of the intrenchment, made me master of the wood. All this procured me a ball behind the ear; and on account of the quantity of blood which I lost, all those about me advised me to have the wound dressed. "If I am beaten," I replied, "it will not be worth while; and if the French are, I shall have plenty of time for that." What could I have done better than to seek death, after all the responsibility which I had again taken upon myself on this occasion? I beg pardon for this digression and personality; but one cannot help being a man. To endeavour to repair faults committed, is, I acknowledge, more noble; but to survive one's glory is dreadful. My business on the right going on well, I wished to decide that of the duke on the left, which proceeded but slowly. To no purpose the prince of Orange had planted a standard on the third intrenchment; almost the whole Dutch corps was extended on the ground, killed or wounded. For six hours Marlborough was engaged with the

centre and the left, without any decisive advantage. My cavalry, which I sent to his succour, was overthrown on the way by the king's household troops, who were in their turn routed by a battery which took them in flank. At length Marlborough had gained ground without me; so that it was easy for me to turn the centre of the enemy's army which had been left unsupported in consequence of the defeat of the wings. Boufflers rendered the same service to Villars as I did to Marlborough, and when he beheld him fall from his horse, dangerously wounded below the knee, and the victory snatched from them, he thought of nothing but how to make the best retreat in the best possible order. I think it is not too much to estimate the loss of both armies at 40,000 men; those who were not killed, had died of fatigue. I gave some rest to the remains of my troops, buried all I could, and then marched to Mons.

There were but 5,000 men in that place. I opened the trenches on the 25th of September, and on the 22d of October, being on the point of assaulting the horn-work of Bertamont, Grimaldi capitulated. Our troops went into winter quarters; and I, being obliged to post about without intermission, proceeded with Marlborough to the Hague, to coax the states-general, who were ready to abandon our cause. I advised them to say at the conferences of Gertruidenberg, that they would not hear of peace unless it were general. I was sure of queen Anne, because I was sure of Marlborough; he seconded me admirably. I went to report to the emperour. I submitted to him a sketch of the state of Europe, of which I could see that his cabinet had not the least idea. I stated the inclination which I observed in several powers to forsake us. At a distance from danger, people are courageous. I was told that I should make a glorious campaign. I replied, that I had lost more men than

could be given me; but yet I would try what I could do.

1711.—Joseph I. was attacked with the small-pox. There were no good physicians at Vienna. They sent to Lintz for one. The pustules came out in such abundance, that I thought him out of danger. On setting out for the Low Countries, I wanted to take leave of him. He sent me word that I had but too much exposed my life for him already, and that he wanted it elsewhere than for the small-pox. I insisted no farther, and set off on the 16th of April. Three days afterwards I was informed of his death, occasioned by the ignorance of the faculty of Upper and Lower Austria, who disputed all night about the means of relieving an inflammation of the bowels, with which the emperor was afflicted. I sincerely regretted this prince, aged thirty-three; the first since Charles V. who possessed genius, and was not superstitious; and I determined to serve him even after his death. I hurried to almost all the electors to dispose them to ensure the imperial crown to his brother, and then went to solicit the Dutch to continue their credit in money and friendship to Charles II. king of Spain, who became the emperor Charles VI.

The protestants did not fail to publish that the court of Rome, which had suffered some humiliations from Joseph I. had bribed his physicians; but no credit should be given to defamatory libels, and to the authors of private anecdotes, as they are called. It has long been the fashion to assert that great personages die of poison.

Tallard, more dangerous in peace than in war, whom I would not have left prisoner in England could I have suspected that he would there acquire any influence, enabled the Tories to triumph, and crush the Whigs. His assiduous attention to Mrs. Marsham, the queen's new favourite, instead of the dutchess of Marlborough, his insinuating manners,

and his presents of Burgundy and Champagne to right honourable members of Parliament, who were *amateurs* of those wines, changed the aspect of European affairs.

Marlborough was playing his last game in the Low Countries. He found means to finish his military career there with glory; he forced the French lines behind the Senzée, and took the city of Bouchain.

On the disgrace of the dutchess, a thousand faults were discovered in him. His pride was denominated insolence, and his rather too great economy was branded with the name of peculation and extortion. His friends, as may be supposed, behaved like friends; and that is saying sufficient. He was recalled. To me this was a thunderbolt. The French assembled on the Rhine. I sent Vehlen with a strong detachment from the Low Countries, and leaving the Hague on the 19th of July, I collected as expeditiously as possible, all the troops I could, at Frankfurt, and took so good a position in a camp near Mühlberg, as to cause to be held, and to cover the election to the imperial crown, which would have been lost had I received a check. The French durst not disturb it. This was for me a campaign of prudence rather than of glory.

Queen Anne threw off all restraint. She had given an unfavourable reception to the Dutch ambassador, and had forbidden Gallas, the imperial minister, her court; assigning as a reason certain expressions which he had employed respecting her. Charles VI. ordered me to make amends for the awkwardness of Gallas, if he had been guilty of any, and to regain the court of St. James's.

Had I acted, as my good cousin, Victor Amedæus, would have done in my place, I should have cried out against Marlborough still more loudly than his enemies, and have refused to see him. But from policy itself, persons of narrow minds ought

to counterfeit feeling. Their designs are too easily seen through. They are despised and miss their object. Gratitude, esteem, the partnership in so many military operations, and pity for a person in disgrace, caused me to throw myself with emotion into Marlborough's arms. Besides, on such occasions, the heart proves victorious. The people, who followed me every where from the moment I set foot in London, perceived it, and liked me the better for this: while the opposition, and the honest part of the court esteemed me the more. In one way or other, all was over for Austria. I coaxed the people in power a good deal. I made presents; for buying is very common in England. I offered to procure the recall of Gallas. I delivered a memorial on this subject, and requested the queen to take other bases at the congress of Utrecht, where her plenipotentiaries already were, that the emperour might be enabled to send his thither. I received so vague a reply, that had the court of Vienna believed me, they would not have reckoned at all upon the feeble succour of the duke of Ormond, who set out to command the English, as successour to the duke of Marlborough, and I should not have lost the battle of Denain. This happened in the following manner. Notwithstanding my distinguished reception from the queen, who, at my departure, presented me with her portrait, I went and told the states-general that we had now nobody on whom we could rely but themselves; and passing through Utrecht to make my observations, I found the tone of the French so altered, so elevated, that I was more certain than ever of the truth of what I had announced. On my arrival at the abbey of Anchin, where I assembled my army, amounting to upwards of 100,000 men, Ormond came and made me the fairest promises, and had the goodness to consent to my passing the Scheldt below Bouchain.

But after feigning to agree to the siege of Quesnoi, he first strove to dissuade me from that step, and then, without reserve, refused to concur in it. I said to him: "Well sir, I will do without your eighteen thousand men." "I will lead them," said he, "to take possession of Dunkirk, which the French are to deliver to me." "I congratulate the two nations," replied I, "on this operation, which will confer as much honour on the one as on the other. Adieu, sir." He ordered all the troops in the pay of England to follow him. Very few obeyed. I had foreseen the stroke, and had made sure of the prince of Anhalt, and the prince of Hesse Cassel.

July the 30th I took Quesnoi. I gave the direction of the siege of Landrecy to the prince of Anhalt, and entered into the lines which I had directed to be formed between Marchiennes and Denain. The Dutch had collected large stores of ammunition and provisions at Marchiennes. In vain I represented to them that they would be better at Quesnoi, only three leagues from Landrecy, and only ten from us; the economy of these gentlemen opposed the change. This made me say peevishly, and as I have been told, with an oath, one day when Alexander's conquests were the subject of conversation: "He had no Dutch deputies with his army." I ordered twenty of their battalions, and ten squadrons under the command of the earl of Albemarle, to enter the lines, and approached Quesnoi with the main body of my army, to watch the motions of Villars. During all these shuffling tricks, of which I foresaw that I should be the dupe, and which Louis XIV. knew nothing of, I made him tremble upon his throne. At a very small distance from Versailles, one of my partisans carried off Berenghen, under the idea that it was the dauphin; others pillaged Champagne and Lorraine. Growenstein, with two thousand

horse, levied contributions all over the country, spreading dismay, and declaring that I was at his heels with my army. It was then that he is reported to have said: "If Landrecy is taken, I will put myself at the head of my nobility, and perish rather than see my kingdom lost." Would he have done so? I cannot tell. He wanted once to leave the trench, but was dissuaded. Henry IV. was formerly advised the contrary. He made the sign of the cross, and remained where he was.

Villars thinking himself not strong enough to attack me, as I had hoped he would, attempted the deliverance of Denain in another way. I have mentioned my vexation respecting the magazines at Marchiennes, upon which depended the continuation of the siege. Two leagues of ground were too much for the Dutch corps. Had it not been for the defection of the English, they might have been defended. The following circumstance demonstrated the talents of Villars, and a kind of fault with which I had to reproach myself. To conceal a movement made on his left toward the Scheldt, with the greatest possible secrecy and celerity, he, with his right, drew my attention to Landrecy, as if he designed to attack the lines of countervallation. All at once he drew back his right towards his left, which during the night had easily formed bridges, as the Scheldt is not wide at this place. These two wings united, advanced unknown to the earl of Albemarle, who attempted with his cavalry, but in vain, to fight what had passed. He relied upon me, but I reckoned upon him. On the first firing of his artillery, I marched to his succour, with a strong detachment of dragoons, at full trot, intending to make them dismount, if necessary, and followed by my infantry, which came up at a quick pace. The cowardice of the Dutch rendered my efforts unavailing. Had they but maintained them-

selves half an hour in the post of Denain, I had been in time. So I had calculated, supposing matters at the worst, had I even been deceived by the manœuvre of Villars.

I found only eight hundred men, and three or four generals drowned in the Scheldt; and all those who had been surprised in the intrenchments, killed without making any defence. Albemarle, and all the princes and generals in the Dutch service, were taken prisoners, while endeavouring to rally their troops. The conduct of the former was represented in very black colours to the states-general. I wrote to Heinsius, the pensionary: "It would be my province, sir, to throw the faults or the disasters of that day on the earl of Albemarle, if I had a single reproach to make him. He behaved like a man of honour; but I defy the ablest general to extricate himself, when his troops, after a vile discharge, ignominiously run away. Your obstinacy in leaving your magazines at Marchiennes, is the cause of all this. Assure their high mightinesses of the truth of what I write you, of my dissatisfaction and profound mortification."

I was obliged to raise the siege of Landrecy, and to approach Mons, for the purpose of subsisting my army; so that I could not prevent Villars from retaking Douay, Quesnoi, and Bouchain.

I often examine myself with the utmost possible strictness. It appears to me, that if I had placed twenty battalions more in the lines, which would have been necessary to defend them, Villars, who was stronger than I, would then have beaten me. Out of the lines, posted as I was, I provided for every contingency. Could I expect that an hour, at the utmost, more or less, would be decisive of my glory, of the war, and of the salvation of France? The artillery of the lines, which were thickly planted with it, ought alone to have given me time to have come

up. Instead of being well served, it was abandoned in as cowardly a manner as the intrenchments. The two faults which I committed, were—not disregarding the remonstrances of the deputies respecting Marchiennes, and confiding a post of such importance to their troops, the flower of which had perished at Malplaquet.

It may easily be supposed, that I was the subject of criticism at Vienna, London, and the Hague, and

of songs at Paris. *Herē* is one which I thought pretty, because it gives in history in very few words:

Eugene, opening the campaign,
Swore with air most furious,
He'd march straightway to Champagne
To swig our wines so curious.
The Dutchman for this journey gay
His cheese to Marchienne sent away;
But Villars, fir'd with glory, cried:
"Faith, where you are you'd better bide;
Scheldt's muddy water is, I think,
Quite good enough for you to drink."

ON THE CHARACTER OF SIR JOHN FALSTAFF.

[Continued from Vol. 4. page 408]

THE plays in which we should contemplate the character of Falstaff, are the two Parts of Henry IV. We see him again, indeed, in the "Merry Wives of Windsor," and with great satisfaction; but he is in fetters. He might say of himself, as after the exploit at Gadshill: "Am not I fallen away? do not I bate? do not I dwindle? Why my skin hangs about me like an old lady's loose gown!" His meanderings are reduced to a straight course, and we scarcely recognise the beauty of the stream. Our memorable queen, when she requested to see Falstaff in love, appears to me (to use a vulgar but pertinent expression) to have "mistaken her mah." Eccentricity of affection was expected; and, as might have been foreseen, we are presented only with his avarice.

But to return; the two Parts of

Henry IV. are, beyond a doubt, the most diversified, in point of character and language, of any of the historical plays of our great dramatist. Who does not marshal in his mind the spirits of "that same mad fellow of the north, Percy;" "of him of Wales, that gave Amaimon the bastinado, Owen Glendower;" and "his son-in-law, Mortimer; and old Northumberland; and the sprightly Scot of Scots, Douglas?" Who cannot paint to himself "that goodly, portly man, sir John;" the chief justice (sir William Gascoigne); and that whoreson mad compound of majesty, prince Henry, who, as he himself observes, had "sounded the very base-string of humility?" Or, who cannot conjure up the manes of the knight's myrmidons, swaggering Pistol,* Poins, Peto, and honest Bardolph,† "whose zeal burned in

* Pistol is a very remarkable character. He seems to be a ranting spouter of sentences and hard words, unconnected and unintelligible; and was introduced by Shakspeare for the purpose of ridiculing the bombast absurdities of his cotemporary dramatick writers. If this was really the object of the character, it must have had a wonderful effect at its first performance, when the plays of Cophetua, Battle of Alcazer, Tamburlain's Conquests, &c. from all which Pistol makes quotations, were before the publick. It strikes me, likewise, as a very ingenious method of silencing the whole train of envious scribblers which his genius would otherwise have brought upon his own back.

† The character of Bardolph is one of those bold dashes of the pencil, which our great painter from nature so frequently exhibits. His great attachment to Falstaff is admirably described. When he is told of the knight's death, he exclaims: "Would

his nose;" and who, as his master remarks, "but for the light in his face, would be the son of utter darkness:" and to close the catalogue, mine hostess of the Boar's Head Tavern in Eastcheap, good mistress Quickly; Francis with his everlasting cry of "Anon, anon, sir!" the "genius of famine," master Robert Shallow; and Justice Silence, whom, as sir John told him, "it well befitted to be of the peace;" with the ever-memorable list of Gloucestershire recruits. Amongst all these interesting personages, however, he who most attracts our notice, and best repays our attention, is sir John Falstaff.

— ἀνὴρ νῦν, μέγας τε,
ἀρνεῖται μὲν ἔργα, εἶσκαται πηγὰς ἱμαλλῶν.

Il. iii 197.

Nor do those persons do him justice, who regard him as a character whose sole constituents are vice and low buffoonery. This was not the intention of Shakspeare. Those who are possessed of a natural vein of humour, no less than those who constantly affect it, will sometimes detect themselves in a strain of "quips and cranks," whose object is "to set on some quantity of barren spectators to laugh." Falstaff's wit is often, it must be confessed, of an illegitimate kind; yet the general character of his pleasantry, and the good sense so frequently sparkling from under his singular quaintness, prove that the poet intended him to have the credit of considerable abilities, however unusual or misemployed. To cancel the imputation of perpetual buffoonery, an idea originating in the misconception of those who personate him on the stage, or would paint him like Bunbury, we must recollect that, although he possessed none of those recommenda-

tions which are implied in the term "gentleman," as the word was received in its better days, yet he had many which were not consistent with mere ribaldry and buffoonery. If we have an eye merely to his imperfections, which are no criterion of rank in society, our opinion of him will be mean and inadequate. He is represented as a "captain of foot," intimate with men of the first title and authority, and, as may be inferred from the scenes into which he is introduced, as likewise from his behaviour to the lord chief justice, could value himself as highly as any of his friends. In the character of companion to the prince, however unworthy he must, in the eyes of the world have been thought deserving of some attention, I will not say respect; for it is in vain that we look for any virtues in him, calculated to inspire us with any thing like reverence. Those who might despise them both for their vices, must remember that Hal was heir to the crown, and that Falstaff was made companion to the future hero of Agincourt. The polite attentions of master Shallow to his old acquaintance, sir John, which may be accounted for without any uncommon sagacity, were returned in a manner consistent with the avarice of the latter, that would now be denominated by the rude name of "swindling." Yet the shadow of worthy affection existed in sir John, as we see throughout his conduct. He ascribes his fondness for Poin to a singular cause: "I am bewitched with the rogue's company. If the rascal has not given me medicines to make me love him, I'll be hanged; it could not be else."* But the affection of the prince for sir John Fal-

I were with him wheresome'er he is, either in heaven or in hell!" The same insight into his character is given by another singular expression. When the prince tells Falstaff of his favour with his father, Falstaff recommends the robbery of the exchequer: "Rob me the exchequer, Hal, and do it with unwashed hands too!" Bardolph, pleased with the proposal, instantly seconds it with, "Do, my lord!"

* This and a number of other characteristick and unobjectionable passages, are judiciously omitted in the play as represented on our theatres. I fancy these omissions

staff is more easily explained, and though manifest in the whole intercourse between them, is more feelingly described by the poet in the prince's lamentation for his loss, when he views him extended for dead in the field of battle: "What! old acquaintance, could not all this flesh keep in a little life? Poor Jack! Farewell! I could have better spared a better man! Oh! I should have a heavy miss of thee, if I were much in love with vanity."

Indeed, we must think more humbly of the prince's judgment and good sense than we are justified in doing from his known character, if we suppose that he did not observe some amiable features in the man with whom the poet makes him spend the greater part of his time, and for whom he procured a "charge of foot." Similarity, in some degree, of dispositions, might be thought a sufficient cause; but where there was not a single praiseworthy object of mutual affection, the poet would not so have erred against human nature as to have represented a friendship. The inconsistency of the prince's future conduct to him, while it reflects somewhat of ingratitude on his poetical memory, was certainly necessary, and tended to the retrieving of his character in the publick mind.

But to solve all difficulties on this head, it will be requisite only to select a single trait in this motley personage, which will ever awaken a partiality for him in every audience. The poet, to counterbalance his thirst of gold, and his more serious vices, has given him an insinuating air of frankness and simplicity of manners. It may be observed that in the first scene of his appearance, you see a man from whom every subsequent part of his history might be expected. The nature displayed in this is too much for the

nerves of the audience. They are delighted to see what they seem to themselves to have known in common life, and to find their acquaintance precisely what they imagined him to be. Falstaff's character is seen at once; he conceals no darker features than those exhibited on his first introduction; and however reprehensible in his vices, he seems willing to trust them to the mercy of his frail audience. This is natural, but it is no extenuation of crime. The prepossession in favour of such men arises from the love of truth and sincerity implanted in us by nature (not to mention the secret tribute paid to our vanity and self-love on such occasions) and every one, at some period or other of his life, must have felt it extorted from him. Such a man is Falstaff. Superlatively vicious and reprobate, he never appears without exposing some darling excess or evil propensity. Yet, in spite of all this, his habits savour so much of every-day profligacy, and his promises of reform and repentance are so frequent, that we cannot help feeling, against our better judgment, something like partiality.

As in the beautiful paintings of objects in themselves ugly or contemptible, such as are observable in the works of Murillo, Schalkens, Hemskerck, and the greater part of the Flemish school, the attention is forcibly drawn from the consideration of the minute parts and their deformity, and rests with pleasure on the natural colours, or striking proportions, of the whole; so, in a full view of the character of Falstaff, his vices seem completely in the back-ground. There is a charm, which withholds the spectator from the contemplation of them. Still, however, they are of no inconsiderable magnitude; and it may well be objected, that moral propriety, which can never be too much attended to

were made by Colley Cibber: if so, they do him as much credit for poetical feeling as his own tragedies.

n dramattick composition, has been infringed, seriously, by giving inward turpitude to so alluring a disguise. Besides his avarice, cruelty, and voluptuousness, he has the glaring faults of a liar, a drunkard, and a robber.* But, in palliation of all this, you must hear his message to Mrs. Ford: "Bid her think what man is; let her consider his frailty, and then judge of my merit." His remarkable cowardice is an essential part of his character, and obliges us to remove our attention to the poet. It is a trite and indisputable truth, that fortitude is the offspring of none but virtuous principles. This feature of his character, therefore, while it is closely natural, the poet observed would likewise prove an endless source of ridicule and amusement to the audience. How ludicrous is it to see this egregious liar, who insists that "manhood, good manhood, will be forgotten upon the earth, when he dies," standing at a respectful distance, while his fellows are plundering the poor pilgrims, and exclaiming "Strike! Down with them! Cut the villains' throats!" with all the energy of a bloodthirsty hero. Or who can refuse a smile, when he hears him request the prince, in the camp at Shrewsbury, in this ignoble form of words: "Hal, if thou see me down in the battle, and bestride me, so; 'tis a point of friendship?" Even his detestable cruelty, is rendered laughable, where he observes of his poor scare-crows, with whom he was ashamed to walk through Coventry, "I have led my ragamuffins where they are pepper'd: there's not three of my hundred and fifty left alive,

and they are for the town's-end to beg during life."

Thus all his faults and imperfections are so well depicted, and so effectually made the objects of derision, that we can scarcely refrain from loving the company of the man who affords us so much diversion at his own expense. For we find he has always so much grace left as to be continually pleading and proclaiming his purposes of reform. In one place he says: "I must give over this life, and I will give it over;" and adds, "I'll be damned for never a king's son in Christendom." So he tells Bardolph he will repent, and that quickly, while he is in some "liking," &c. and, in his letter to the prince, he gives him this advice: "Repent at idle times as thou may'st, and so farewell." This is, indeed, holding the mirror up to Nature. Those who have most reason to reform their habits, talk violently of their resolutions, and are ever last to execute them. The same opportunities of indulgence recur, and always find the same complying weakness. This is specifically exemplified where sir John makes a long parade of his penitence; and, after he has finished, is asked by the prince: "Where shall we take a purse to morrow, Jack?" and the hoary sinner answers: "Where thou wilt lad, I'll make one; an I don't, call me villain, and baffle me."

He has, however, in a manner, no unnecessary or superfluous vices. They are all the natural excrescences of his character. We may be inclined to connive at his "drinking old sack," "unbuttoning after sup-

* It is to be remembered that robbers, at that time of day, were very differently received in society from what they are at present. It could not be otherwise, when the example began around the king's person, by courtiers who pleaded in justification the scantiness of their allowance from their royal master. This made it a "vocation," as sir John calls it, of less publick disgrace. Matthew Paris mentions two merchants of Brabant, in the time of Henry III. who complained of an open robbery in the middle of the day, and after much trouble the perpetrators were discovered to be men of rank at court. Yet even then "resolution was fobbed by the rusty curb of old father Anck, the law," for no less than thirty of them were hanged.

per," and "sleeping upon benches at noon," because he tells us "he has more flesh, and therefore more frailty;" and we may allow him to ask: "Shall I not take mine ease in mine inn?" but no indulgence must blind us to his real faults, and he must be reprobated for too often "leaving the fear of God upon the left hand;" in his dishonesty to Dame Quickly, and Master Shallow; for his enormous lies and obscenities; and the vices consequent upon his avarice. Hence, the exhibition of such a character to a young person, should be attended always with an admonition to distinguish between the fascinations of poetry, and the depravity which it may seem to extenuate, by the beauty of the resemblance to nature.*

But, it is astonishing how much the attention is drawn aside from these dark parts of his character, by his wit and incessant humour. I before hinted to you, that there are persons who value his wit no more than the jests and scurrilities of a buffoon; who look upon him as no better than the clowns in Twelfth Night, and, As You like it; and who conceive that the same degree of talents would be requisite to personate them all. To these Falstaff might answer in his own words: "Men of all sorts take a pride to gird at me; the brain of this foolish-compounded clay, man, is not able to produce any thing that tends to laughter, more than I invent, or is invented on me. I am not only witty myself, but the cause that wit is in other men." Contrary to the fashion of Shakspeare's age, Falstaff's wit is, for the most part, pure and sterling; and often supported through a whole soliloquy. Few men can read half a dozen lines of any of them, without acknowledging

it. If the definition of wit is just, that it discovers real congruities not before apparent (and to me it appears a very just one) the effusions of Falstaff are, in most instances, entitled to that name. It would be useless to demonstrate what is self-evident in every scene of his appearance. Much of his wit, so called, however, is of another description, and arises from his assigning wrong causes, which, from their seeming probability and relation, produce the same effects as the *bulls* attributed to the Irish.

The effects of wit upon the hearers, are generally favourable. In addition to its known influence upon the muscles, which are never so moved without a degree of pleasure, it opens a new source of gratification, by flattering our vanity. We feel almost as though we ourselves were the authors of it, when we give ourselves the credit of understanding and experiencing its full force. It is, perhaps, from this cause likewise, that we look with favour on the more objectionable parts and profligacies of this "gray iniquity," sir John. The man who would win upon our affections, or rather our partiality, cannot do better than to address himself to our self-love. This kept alive the prince's affection for Falstaff; and continues to excite in us the same favourable sentiments.

Having said thus "much in behalf of that Falstaff," I cannot help adverting to the prospect of a New Theatre. Whatever may be the intended plan of such an establishment, I am sure the lovers of rational amusement (for if it ceases to be rational, it had better cease altogether) look forward to a long wished for reformation in theatrical representation. I am far from think-

* Plutarch gives the same advice at greater length: De Audiendis Poetis. Sec. 11, 12, 13, 14. Speaking of subjects of this kind, he adds: εν οἷς, μαλιστα δε τον επιζητῶν, διασκορμενον ὅτι, τον παραξιν εκ επιαινε. μεν, ης γεγονενη μιμησις αλλα την τεχνην, ει μιμηται προσκοιτων το υποκειμενον.

ing it fastidious pedantry, to condemn, with very few exceptions, the whole mass of modern dramatick poetry.

It has mistaken the plan, the means, and the end, of such compositions. The plots, intrigues, and characters, of these plays, are either bad imitations of originals, unnecessarily neglected, grotesque transcripts from low life, or they are so unnatural and unmeaning, as to disgust even the criticks of the gallery. As to the means, I believe no one ever thought of fixing in his memory a single line or sentiment of these plays, for the instruction contained in them; and with regard to their wit, none but raw apprentices would ever consider them worth repetition. But, to the publick are these authors amenable for their deviation from the great end of dramatick writing. I am not inclined to cant, when I declare my abhorrence of the oaths, obscenities, immoralities; nay, of the solemn addresses and prayers to the Deity, which are without number so perniciously introduced.—This may be called stage-effect. The only effect I know of from such representations and expressions, is the gradual depravity of the ignorant

and inexperienced part of the audience; and the familiarizing all with words and actions at which they ought to shudder. Let us, therefore, hope, that the theatre now in contemplation to be erected, will give the lie to those who think propriety and popular amusement incompatible. The first step towards this will be the formation of an "Index Expergatorius," containing the names of plays not to be represented on any terms, and the names of those which shall be prohibited, "donec corrigantur." It is absurd to imagine that we want new plays: we have already a great sufficiency, whose merits have been approved. Let these, and these only, find admission on our new stage; and when the evening's amusement is announced, every man will know whether he may safely indulge his children, or introduce a female, where, as the stage is now constituted, common prudence forbids their appearance. Much more might be advanced upon the regulation of such a theatre, which, if I had influence to effect, it should be almost exclusively a Shakspeare theatre.

A. B. E.

FROM THE EUROPEAN MAGAZINE.

OBSERVATIONS ON THE NEWLY DISCOVERED ART OF PRINTING WITH STONE.

IT will probably be in the recollection of many of our readers, at least we will endeavour to bring the circumstance to their knowledge, that, in our review of that splendid and truly ingenious work, "*The Antiquities of Westminster*, by John Thomas Smith," a method of drawing and engraving on stone, invented and practised by Mr. Aloys Senefelder, is mentioned, and two specimens of the different methods of increasing copies alluded to. We there, although we allowed the discovery to have been extremely curious, from

a minute inspection and deep contemplation of the engravings, stated, that there was a coarseness in the art, or rather in the material upon which it was practised, which only adapted it to the production of large works; at the same time we admitted, that it included properties capable of great improvement. This improvement has, we understand, been in progress, and learn that experiments have been made, and are now making, that afford the prospect of very considerable advantage to the arts in general, and to those

dependent upon the multiplication, and consequent wide dispersion, of copies in particular. We, therefore, in order to facilitate the improvement to which we have alluded, feel great pleasure in inserting the following account of the elementary principles of the art of printing with stone, in order to introduce, or superinduce, disquisition, which, in the efforts of ingenuity, has been deemed the portal that leads to perfection.

THE art of printing from stone, originally discovered in Germany, about nine years ago, and which has since been successfully practised in Italy and France, appears till lately to have been but little used, or even known, in this country, though meriting, from its simplicity, its expedition, and its economy, to rank high among modern discoveries, and offering some real and important advantage to the arts. Its inventor was, as already stated, Aloys Senefelder, a native of Prague, in Bohemia, who first obtained, in 1801, an exclusive privilege for the exercise of it from the then elector of Bavaria: and, in 1803, a like privilege from the emperor of Germany. Senefelder, in consequence, established stone printing houses at Munich and at Vienna: and, under his directions, similar establishments have been formed in France and Italy. It is at Munich, however, that the art has been brought to the greatest perfection.

There are three different methods of printing with stone, namely, the method in relief (most generally used) and particularly adapted for musick; the hollow method, preferable for engravings; and the flat method, which is neither hollow nor in relief, but which is very useful for the imitation of chalk and other drawings. To print or engrave according to this process, a slab of inerrated marble, or any other calcareous stone, is used, provided the

stone can be easily cut, and takes a good polish. These stones may thus be compared to the copper plates, or wooden blocks, for which they are, indeed, substituted. They ought to be from two inches to two inches and a half thick, and of a size proportioned to that of the work which it is meant to engrave upon them. When the stone is dried and well polished, the next operation is, to draw the design, notes, or letters, that are intended to be printed upon it with a pencil, and afterwards retrace the pencil marks with an ink made of the solution of gum lac, in pot-ash, coloured with lamp-black, produced from burning wax. In about two hours, the letters, or musical notes, impregnated with the ink, will be dry, when there is passed over them nitrick acid [*aqua fortis*] more or less diluted, according to the relief or hollow which it is desired to form upon the stone. The acid attacking all parts of the stone, but those which have been impregnated with the resinous ink only, the notes or drawing remain untouched. The slab of marble is then washed with clean water, and a printer's ball is charged with an ink analagous to that used in other kinds of printing, and being pressed by the hand only, the letters or notes take the ink from the ball, so that they are found to be properly coloured. After this, a sheet of paper being put in a frame, the latter is lowered, and an impression is obtained by a brass cylinder being passed over the paper; or a copper plate press may be used. At each proof it is necessary to wash the plate with water. When the intended number of copies are printed, and there is no further use for the work, the stone is polished again; and thus the same slab will, according to its thickness, serve for thirty or forty different works.

The hollow method does not differ greatly from the method in relief, except that the nitrick acid is made to act stronger upon the stone,

so that the letters are more relieved, and the stone itself much hollower: stronger and heavier rollers are likewise requisite.

The flat method requires less nitric acid than either of the other two; and great care must be taken, that the stone prepared for this purpose is quite flat.

The kinds of work that are engraved on stone are the following: imitations of wood cuts, imitations of the dot manner, drawings, musical works, all kinds of writing, geographical maps, and engravings in mezzotinto.

The advantages resulting from the manner of printing or engraving, described above, are, that it has a peculiar character, which cannot be imitated by the other methods of printing, and that it can easily imitate any of the former. But its greatest advantage is, the quickness with which it may be performed. A design which an artist could not finish upon copper in the space of five or six days, may be engraved upon stone in one or two. While the copper plate printer draws off six or seven hundred impressions, the printer from stone, can take off, in

the same space of time, two thousand impressions. An engraved copper plate will seldom yield 1000 impressions; but the stone slab will yield several thousand, and the last will be every whit as good as the first. It has been tried in the stone-printing office at Vienna to take off thirty-thousand impressions of the same design; and even then the last impression was nearly as handsome as the first.* They have even carried this number of copies to a greater extent in printing bank notes.† The most industrious and most skilful engraver of musick can hardly engrave four pages of musick on pewter in a day, while the engraver on stone may engrave twice as many in the same time. Every kind of work which artists engrave upon copper or pewter, and which the printer executes with movable types, may also be performed by using stone. Our limits will not permit us to enter into all the details of the cost of this method of printing; but experience has shown, that it may be performed with a saving of one third of the expense, in comparison of the printing upon copper or pewter.‡

PRESENTIMENT OF DANGER AND DEATH.

AT the siege of the Havanna, in 1762, the Namur and Valiant took it day and day about to fight a sap battery; and the relief of the

people was effected every midnight, to save from the observation of the Spanish garrison one party's approach and the other's retreat. We

* If this art could be in some degree refined, and its productions adapted to periodical publications, for instance, its explanatory advantages must be incalculable.

† The facility of printing these in this country, we are of opinion, need not be increased.

‡ Contemplating the rise of engraving, and particularly adverting to the wood-cuts of Albert Durer (who was the first that practised the art in that manner) which we erst have frequently considered with attention, as we have those of M. Antonio, we cannot help congratulating this age upon the very great improvement that has been made in the art of engraving upon wood. The two celebrated artists whom we have mentioned, though correct, perhaps too correct, in their outlines and their muscular delineations, are, in their general designs, stiff, harsh, and tasteless; which leads us to observe, that the wood cuts that embellish the works of modern times, the *Life of Leo X.* for instance, exhibit such traits of improvement, indeed of excellence, that we are induced to hope stone engraving, which, as we have said, seems to promise still greater advantages, will be as sedulously pursued.

had marched forty in number, a lieutenant leading, and myself [a midshipman] bringing up the rear, to relieve the *Valiant's*, when Moor, one of our men, made frequent calls to stop; these at last became quite frivolous, and my distance had got so long from the lieutenant, that the party was halted to close the line. In the interim, Moor fairly owned he had no stomach for the battery that night, knowing he should be killed. Our officer, a hard-headed Scotchman, steady and regular as old time, began sharp upon me: my excuse was the man's tardiness, and I reported his words. "Killed, indeed, and cheat the sheriff of his thirteener and a baubee! No, no, Paddy: trust to fate and the family honour of the O'Moors for all that. Come, sir, bring him along: point your sword in his stern-post." Moor, of course, made no reply, but under a visible corporeal effort and a roused indignation, stepped into the line: our whole party moved on. Now this Moor was seldom out of a quarrel on board ship, and having some knowledge of the fistycuffs-art, he reigned pretty much as cock of the walk on the lower gun-deck. When we had relieved the battery, and the *Valiant* had gone silently off, all the guns were manned. There remained on the parapet only one heavy piece of ordnance, and our very first discharge dismounted it. Elated with that success, up jumped all hands upon the platform, and gave three cheers, when a little devil of a gun took us in a line, and knocked down five men. Sure enough

amongst these, Moor, being the foremost upon his legs, was the first person killed. From whence had Moor this fore-knowledge? He quoted no dream. In 1778, to come nearer the recollection of survivors, at the taking of Pondicherry, captain John Fletcher, captain Demorgan, and lieutenant Bosanquet, each distinctly foretold his own death on the morning of their fates.

L'Oriflame, a well appointed 40 gun French ship, had been taken by our *Isis* of 50. Captain Wheeler, immediately prior to close action, sent for Mr. Deans, surgeon of the *Isis*, and intrusted him in certain particular injunctions about family concerns. The doctor attempted to parry funeral ideas, but was bluntly told: "I know full well this day's work: Cunningham will soon be your commander. All the great circumstances of my life have been shown in dreams: my last hour is now come." He was killed early in the fight; and lieutenant Cunningham managed so well in the devolved command, that admiral Saunders made him a post captain into *L'Oriflame* in Gibraltar bay. This fore-knowledge of things at hand is a subject many profess themselves positive about: their strong argument is experience, and all who have not been so favoured, may reasonably enough doubt, stopping short of contradiction. Certain instances then afloat in the navy, I may take the liberty to produce, anticipating, however, an adventure of some such kind, never in my power to comprehend.

To the Editor of the Monthly Magazine.

SIR—Permit me to relate an anecdote of one of the brute species, which, perhaps, would never have appeared before the publick, had not the relation of one partly similar, in the present work, revived the circumstance in my memory.

VOL. V.

Some years ago, having occasion to reside for some time at a farmhouse in the country, I was much alarmed, one morning, by the unusual bellowing of a cow under the window of the apartment wherein I was sitting. Looking out I perceived

her to be one belonging to a herd, which I previously understood were enclosed in a field near a mile distant. Alarmed at her appearance I went out in order to take her back; but as soon as I left the house, she ran before me apparently in the greatest concern, frequently looking back to see if I was following. In this manner she continued across several fields till she brought me to the brink of a deep and dangerous morass; where, to my great surprise, I beheld one of her associates nearly enveloped in the swamp underneath. The distressed animal, after much difficulty, was extricated from its perilous situation to the no small satisfaction of the other, which seemed to caress and lick it, as if it had been one of her own offspring.

Every observer of the animal creation must be aware, what a regular degree of subordination exists among herds of cattle that have been long accustomed to ruminate together. The instinct of the cow, in this respect, is by no means the least predominant. When a farmer, makes his first selection, he, of course, has a great variety of the same species, and (if we may presume to judge from analogy) endued with a diversity of dispositions; hence, for some time it is entertaining to behold the many disputed points that arise among the candi-

dates for precedence, before the business can be amicably adjusted; for it is very observable, they always walk in lineal procession, preceded by a chieftain, or leader, which is unanimously acknowledged by the whole herd. The rest follow in order, according to their contested decisions, each being most tenacious of her allotted station; which did not escape that accurate delineator of nature, Bloomfield, who, in his "Farmer's Boy," makes the following beautiful allusion:

"The right of conquest all the law they know:

Subordinate, they one by one succeed;
And one among them always takes the lead:

Is ever foremost, wheresoe'er they stray,
Allowed precedence undisputed sway;
With jealous pride her station is maintained,

For many a broil that post of honour gained."

But a tacit responsibility seems to devolve on their leader, for the care and welfare of the whole, which has been fully exemplified in the preceding anecdote: the concerned cow being the premier of the herd.

To account for this wonderful degree of instinct, in this part of the animal species, is beyond my penetration; I leave the subject for matured philosophy to investigate.

Your's, &c.

J. HOLCROFT.

ON THE UTILITY OF COAL GAS LIGHT.

THE following details, relative to the coal gas light, one of the greatest improvements of which modern times can boast, are taken from an interesting Memoir read before the Philosophical Society of Glasgow, by Mr. Richard Gillespie, by whose publick spirit, and at whose works, this great experiment of permanently lighting an extensive manufactory by gas, was first undertaken in Scotland. The apparatus, made by

Balton and Watt, was fitted up at Anderston the latter end of the summer of 1809, and Mr. Gillespie's works were illuminated in this manner at the beginning of November. Since that time some great improvements have been made and the whole now constitutes a very pleasing exhibition. Two iron retorts, of a semi-cylindrical form; each capable of containing about one cwt. of coal, yield at every charge 750 cubick feet of

gas, which, after being washed, so as to deprive it of any disagreeable smell, is conducted into a large cubical plate-iron gasometer, of a capacity equal to 1120 cubick feet. The gas evolved by the regular process of carbonization, during the day, is here stored up for use. From this magazine, which floats in a water cistern, a main pipe issues, which afterwards branches into innumerable ramifications, some of them extending several hundred feet under ground; thence to emerge diffusing over a multitude of apartments a kind of artificial day: so vivid is the illumination. The flame, however, though exceedingly bright, is very soft and steady, and free from that dazzling glare which has been so greatly complained of in the otherwise beautiful light of the Argand lamps. No trouble attends this mode of illumination, the occasional attendance of one man in the gas-house, to charge the retorts, and mend the fire, being all that is necessary. On turning a stop-cock,

any particular flame may be kindled immediately, and no trimming or snuffing is required; neither are any sparks thrown off, as from a burning wick: 1 1-3 cubick feet of gas yield the same quantity of light as a moulded candle of six in the pound, which is found, on the average, to last 2 1-2 hours. The contents of the gasometer are, therefore, equal to 900 such candles. To fill it requires three cwt. of coals, value at 6*d.* each cwt. 1*s* 6*d.* coal for heating the retorts during the composition, 1*s*. Hence, for 2*s*. 6*d.* a quantity of light is procurable from coal gas, which obtained from candles would cost about 10*l.* But from the above charge for coal, we must deduct the whole expense of what goes into the retort, for this acquires additional value by being charred; and is eagerly bought up by the iron-founders. A large quantity of tar is also obtained in the condensing pit, as well as ammoniacal liquor, from both of which considerable returns may be reasonably expected.

MISCELLANY.

INK POWDER.

A report has been made to the French National Institute, on a memoir by M. Tarry, relative to the composition of writing ink. The author has succeeded in making an ink which cannot be destroyed by the acids or alkalies, and which has only the slight inconvenience of allowing its colouring matter to be deposited rather too easily. "The discovery of M. Tarry," says the reporter, "promises a great benefit to society; viz. the introduction of an ink, which, not being susceptible of being obliterated by the chymical agents at present known, will put an end to the falsification of writings, which is but too common."

PRESERVATIVE PLASTER PARIS.

A committee has been busily employed in examining a process of the late M. Bachelier, for the composition of a PRESERVATIVE PLASTER OF PARIS. Houses built of stone, are quickly covered with an earthy coating, of a dirty gray colour; and this first change is the cause of the deterioration which they soon afterwards undergo. A small kind of spider fixes his web in the hollows on the surface of the stone. These webs accumulate, and, with the dust which they collect, form the earthy crust just mentioned, in which lichens sometimes take root, and which naturally retain a constant humidity at the surface of

the stones; the frosts then produce considerable injury, and give occasion for those raspings, which are, in themselves, a real deterioration.

—A plaster, therefore, became a desideratum, which should fill up the inequalities of the stone, without making the angles look clumsy, or deadening the carvings, and which should resist rain and other effects of weather. The late M. Bachelier had made some interesting experiments on this subject; and the above committee, aided by his son, have succeeded in producing a plaster which has resisted the tests to which they exposed it, and which gives fair grounds to expect that our buildings will, in future, be protected from the causes of decay above enumerated.

To the Editor of the Monthly Magazine.

SIR—A correspondent requests some of your readers will inform him of the best method of preparing the composition which is now used for VARNISHING COLOURED DRAWINGS AND PRINTS, so as to make them resemble paintings in oil.

I do not pretend to assert that the following is the best method of preparing a composition for that purpose; but I have used it, and found it answer. Take of Canada balsam one ounce; spirit of turpentine two ounces; mix them together. Before this composition is applied, the drawing or print should be sized with a solution of isinglass in water; and, when dry, apply the varnish with a camel's-hair brush.

W. W.

Subterraneous Passage discovered.

The subterraneous passage, by which the Roman emperours went privately from the palace of the Cesars, on Mount Celius at Rome, to the Flavian amphitheatre, has lately been discovered, besides a number of architectural fragments, capitals, cornices, and vases, the remains of its splendid decorations. Some fine

torsos have also been found, and a head of Mercury, which appears to have belonged to the statue in the garden of the pope, and now in the Chiaramonti museum. Several pipes and gutters for carrying off water were also discovered, and twenty rooms of very small dimensions, lighted only from the top.—These are presumed to have been the *fornices*, frequently alluded to by Martial, Seneca, and Juvenal.

JOHN D. CASSINI.

He had such a turn for Latin poetry, that some of his compositions were printed when he was only eleven years old. In 1652, he determined the apogee and eccentricity a planet from its true and mean place, a problem which Kebler had pronounced impossible. In 1653, he corrected and settled a meridian line on the great church of Bologna, on which occasion a medal was struck. In 1666, he printed at Rome, a theory of Jupiter's satellites. Cassini was the first professor of the royal observatory in France. He made numerous observations, and in 1684, he discovered the four satellites of Saturn; 1695, he went to Italy to examine the meridian line he had settled in 1653; and in 1700, he continued that through France which Picard had begun.

SIR ISAAC NEWTON.

SIR Isaac had a great abhorrence of infidelity, and never failed to reprove those who made free with Revelation in his presence, of which the following is an instance. Dr. Halley was sceptically inclined, and sometimes took the liberty of sporting with the Scriptures. On such an occasion sir Isaac said to him: "Dr. Halley, I am always glad to hear you when you speak about astronomy, or other parts of mathematicks, because that is a subject which you have studied, and well understand; but you should not tattle

of Chriitianity, for you have not studied it; I have, and know you know nothing of the matter."

INDIAN COQUETRY.

The Chawanon Indians, inhabiting the lake Mareotti, and who are considered the most warlike and civilized of the American Indians, have a manner of courtship which we believe to be peculiar to themselves. When such of their young women as have pretensions to beauty, attain their twelfth year, which is the usual period of their marriage, they either keep themselves quite secluded at home, or when they go out muffle themselves up in such a manner, that nothing is seen but their eyes. On these indications of beauty, they are eagerly sought in marriage, and those suitors who have acquired the greatest reputation as warriors or hunters, obtain the consent of the family. After this, the lover repairs to the cabin, where the beauty is lying enveloped on her couch. He gently approaches and uncovers her face, so that his person may be seen, and if this be to her mind, she invites him to lie down by her side; if not, she again conceals her face, and the lover retires. A husband has the privilege of marrying all his wife's sisters as they arrive at age, so that after, often before, his first wife is thirty, he has married and abandoned at least a dozen.

AN EXPERT MARKSMAN.

A late traveller, giving an account of the rostrated chætodon fish, at Batavia, informs us that "it was first introduced to our notice by M. Hommel, governour of the hospital in that city. It frequents the sides of rivers in India in search of food. When it sees its prey, viz. a fly, on the plants which border the stream, it approaches in a very slow and cautious manner, till within four, five, or six feet of the object, and then rests a moment, perfectly still, with its eyes directed towards the fly.

When the fatal aim is taken, the fish shoots a single drop of water from its mouth with such dexterity, that it never fails to strike the fly into the water, where it soon becomes its prey. The fish never exposes its mouth above the water."

DR. MOORE, father of the late heroick sir J. Moore, used to relate the following anecdote with great humour. A French student of medicine lodged in the same house, in London, with a man in a fever. This man was continually teased by the nurse to drink, although he nauseated the insipid liquors she offered him. At last, when she was more importunate than usual, he said to her: "For God's sake, bring me a salt herring, and I will drink as much as you please." The woman indulged him: he devoured the herring, drank plentifully, underwent a copious perspiration, and recovered: whereupon the French student inserted this aphorism in his journal; "A salt herring cures an Englishman in a fever."

On the student's return to France, he prescribed the same remedy to his first patient in a fever. The patient died: on which the student inserted in his journal the following caveat:

"N. B. Though a salt herring cures an Englishman, it kills a Frenchman."

Two men happening to jostle each other in the streets, says one, "I never permit a blackguard to take the wall."—"I do," said the other, and instantly made way.

A shabby beau (who now and then borrows a suit of his tailor, when he cannot afford to buy) appearing a few weeks ago in a suit of black, was asked by a person he met if he was in mourning for a friend? "Oh, no," says he, "I wear it because it is *Lent*."

During the time of general Bel-leisle's confinement in Windsor Castle, as a party of soldiers were marching there, to be set as guards over him, a gentleman had the curiosity to ask on what business they were going; when one of the officers, fond of punning, replied: "We are going to Windsor, to keep a *General Fast*."

The following lines from Shensstone, are often scribbled on inn windows:

Whoe'er has travelled life's dull round,
Where'er his stages may have been,
Must sigh to think he still has found,
The warmest welcome at an inn.

The following parody is written beneath the above lines, at an inn in the West:

Whoe'er has travelled much about,
Must very often sigh to think,
That every inn will turn you out,
Unless he's plenty of the chink;

King Charles II. of England, spending a cheerful evening with a few friends, one of the company, seeing his majesty in good humour, thought it a good time to ask him a favour, and was so absurd as to do so. After he had mentioned his suit, the king instantly and very acutely replied: "Sir, you must ask your king for that."

POETRY.

Lines on the Death of Hugh Meyler.

Written on Good Friday, 1809.

[By Joseph Blockett.]

" Muse of sorrow, heavenly guest,
Come, possess my aching breast!
Quick my trembling hand inspire
To touch with skill the hallowed lyre;
The hallowed lyre, whose strains impart
Comfort to the bleeding heart.

Alas! see where, in manhood's bloom,
A victim to the dreary tomb,
The parent's hope profoundly sleeps;
And see; oh see! what parent weeps:
Weeps o'er the plant he reared with pride;
Which scarcely blossomed e'er it died.

" Come then, soother sweet of grief,
Muse of sorrow, bring relief.
From thy solitary cell
Kindred notes of passion swell;
Notes, like Gilead's balmy power,
To assuage the anguished hour.

" But what sounds are those I hear,
Hovering on my listening ear?
Sure some heavenly minstrel brings
Solace from celestial strings:
Yes, I see, in yonder cloud
An angel strikes his harp aloud,
And with strains of soothing peace
Bids the muse of sorrow cease.

" Now, methinks I hear it say,
Haste, my brother! haste away
From a world of various wo,
From the shades of death below.
Hasten, soaring spirit, blest,
Hasten to thy brother's breast.

" Hark! the kindred shade replies,
As through yielding air it flies,
' Yes, my brother, yes, I come
Exulting o'er the rayless tomb:
Summoned to an equal seat,
Cherub may a cherub greet.

" Yet, what means this hollow moan?
Ah! it is my parent's groan
Hovering round me in my flight
To the azure fields of light.

" Cease then, cease, fond parents dear!
Check, ah! check the tender tear.
Soon our transports ye will share,
And, in realms of purer air,
Meet the rich award of heaven,
Which to suffering worth is given."

Domestick Farewell to Summer.

Sweet Summer hours, farewell!
And every sylvan shade;
The upland wood, the sheltered dell,
And deep romantick glade;
Already Autumn, pacing nigh,
Displays his golden pageantry.

No more the lengthened day
To heedless ramble woos;
Nor twilights (growing softly gray)
Eve's crimson beams suffuse.
Night draws her hasty curtain round,
And shades the half-ferbidding ground.

With fond regretting eye,
The fading charms I view:
Earth's variegated livery,
And heaven's refulgent blue;
But not for these, however dear,
I drop the softly poignant tear.

The genii of the Spring,
That people every brake,
Haunting low glen, and grassy ring,
My fancy cannot wake;
The spirit of the past pervades
Your wild, your consecrated shades.

'Tis this on every bark,
Some phantom bliss inscribes;
This animates the covert dark,
With pleasure's airy tribes:
Loves wild, domestick, playful, sweet,
That know nor chill, nor feverish heat.

With you, sweet scenes are fled,
Affection's happiest hours:
The garland that adorns her head,
Is wreathed of feeble flowers;
And Winter's blast, or Summer's ray,
May sweep, or scorch their bloom away.

Dear moments, ere ye fly,
Nor trace nor vestige leave,
Once more in vision meet my eye,
Let me one glimpse retrieve;
'Ere woods are green another year,
How altered may your forms appear!

Then that same checkered shade,
That mossy green recess;
That primrose bank, that forest glade,
In nature's newest dress:
May flaunt and bloom—but still in vain;
Their joy, alas! is memory's pain.

Beneath the hillock green,
One loved companion laid;
Would change with magick touch the
scene,
To dark and horrid shade!
Joyless, forlorn, repulsive, drear,
Would every lonely walk appear.

The gently sighing gale,
No musick could convey;
Hushed, every songster of the vale,
Still, every dancing spray:
To sorrow's ear, to sorrow's eye,
Formless and mute does beauty lie!

The spirit of the past,
O'er each deserted scene,
Hovering, amid the dreary blast,
Would seek the hillock green;
And melancholy moanings fling,
Upon the shuddering ear of Spring.

Then joy's ecstasick train,
The merry elfin throng:
And childhood dancing o'er the plain,
Or forest shades along;
Would grief, the sorceress, dispel
From wood, and brake, and haunted dell.

Or armed with ruthless spear,
And penetrating lance,
The rallying squadrons would appear,
Embattled to advance;
With subtle dart of finest pain,
Would every pang recall again.

As each receding year
On life's horizon fades:
Thus faint and tremulous with fear,
I scan the coming shades.
O! untried moments! on your wing,
What latent terrors do ye bring?

Where points your *foremost* dart?
Who fated to destroy?
Tell me, what gayly throbbing heart,
Now warm with life and joy,
'Ere summer gild another sky,
Beneath the valley's clod shall lie!

Yet why explore the maze,
For mortals ne'er designed?
Heaven spreads a cloud upon its ways,
In pity to mankind:
And ignorance and hope bestows,
To cheat the future of its woes.

Cease, inconsiderate eye,
Thine impotent employ;
And, as successive moments fly,
Their passing smiles enjoy;
To day, with all its bliss is mine,
To morrow, pitying beaven, be thine.

CAROLINE.

From Mr. Dallas's Novel of Percival.

Three matchless properties combine
To make the female form divine;
Idalian properties, above,
Distinguished in the queen of love.
But though of high celestial fame,
Among the Gods they have no name,
Unvocal speak to sense divine,
As here to us in CAROLINE.

Observe the raptured eye, that tells
What charm in due proportion dwells.

Proportion, which the art can give
To make the very marble live;
Traces the neck, the shoulder, waist,
The foot, the ancle, justly placed:
Men call it SYMMETRY divine,
But Gods shall name it CAROLINE.

How spirit animates each feature
Of a lively, blooming creature!
O'er all the face its spells arise,
But chiefly eloquent the eyes;
Thence fly the secrets of the heart
Thence lovers wordless vows impart:
While thus EXPRESSION we define,
The Gods shall call it CAROLINE.

Come forth, Euphrosyne! I see

The charm that crowns the matchless
three:

'Tis on that nether lip, and now
It darts across that farther brow;
Now to thy bosom sweeps the loves,
And now beneath thy steps it moves:
'Tis GRACE, as worded by the Nine;
Call it, ye Gods, your CAROLINE.

But should the immortals now descend,
And for strict grammar rules contend,
Calling Dan Priscian to affirm
That each idea claims a term;
Do thou, Mæonides, arise!
Improve the language of the skies;
Then, when the Gods the three combine,
They'll call the union CAROLINE.

LITERARY INTELLIGENCE.

☞ COMMUNICATIONS for this head, from authors and booksellers, post paid, will be inserted free of expense. Literary advertisements will be printed upon the covers at the usual price.

Articles of literary intelligence, inserted by the booksellers in the UNITED STATES' GAZETTE, will be copied into this Magazine without further order.

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John Tiebout, New York,

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